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**REPORT TO THE
SAN FRANCISCO BOARD OF SUPERVISORS**

**MANAGEMENT AUDIT
OF THE
WORKERS COMPENSATION DIVISION (WCD)
OF THE
EMPLOYEES RETIREMENT SYSTEM**

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1390 MARKET STREET, SUITE 1025

SAN FRANCISCO, CALIFORNIA 94102 • TELEPHONE (415) 554-7642

February 7, 1994

Honorable Annemarie Conroy
Member, Board of Supervisors
City and County of San Francisco
Room 235 City Hall
San Francisco, CA 94102

Dear Supervisor Conroy:

Transmitted herewith is the Budget Analyst's management audit of the Workers Compensation Division (WCD) of the Employees Retirement System (ERS). This management audit was conducted in accordance with Charter Section 2.400, which authorizes the Board of Supervisors to make inquiries concerning the operations of any department or office of the City and County of San Francisco.

The purpose of this audit was to examine the efficiency and effectiveness of the operations of the WCD, which expends approximately \$38.5 million annually for State-mandated workers compensation benefits on behalf of City and County employees who are injured in the course of their employment. The scope of this audit included an evaluation of the organizational structure of the WCD, its performance in administering claims, its internal management and personnel practices, its procurement of consultant services from outside contractors, its development and use of management information, and its health care delivery systems.

In November, 1993, San Francisco voters approved Proposition L, a Charter Amendment which establishes a new Department of Human Resources. Under the Charter amendment, the WCD can be transferred from the ERS to the Department of Human Resources as early as July 1, 1994, upon approval of an implementing ordinance by the Board of Supervisors.

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In the course of this audit, significant reforms were enacted by the California State Legislature, modifying State laws concerning the administration of workers compensation benefits. To the extent possible, we have incorporated an analysis of these reforms in our recommendations for the future direction of the City's workers compensation program.

Report Findings

This management audit includes 18 sections or subsections, corresponding to our major findings. Based on our audit findings and conclusions, we have made 87 separate recommendations which are specified in this transmittal letter and in the text of our report. A summary of our management audit findings is as follows:

Section 1: Organization

Section 1.1: Organizational Alternatives

Numerous indicators identified within this report suggest extensive management deficiencies within the WCD. For instance, we have noted the following specific deficiencies:

- A lack of comprehensive policies and procedures for examining claims, including procedures to investigate new claims to determine whether the City should accept financial liability;
- A need for significantly more training of claims examiners who administer benefits;
- Inadequate information resources for adjusters to examine claims;
- Failure to competitively bid contractual services valued at more than \$6.3 million;
- Lack of oversight of the activities and fees of independent contractors;
- Contractual rates for the services of Saint Francis Memorial Hospital (which operates the Franciscan Treatment Room, the WCD's primary medical care facility) which are higher in some cases than rates established under State administrative regulations;
- Failure to comply with Administrative Code requirements for reporting comparative medical costs to the Board of Supervisors;
- Inattention to the use of preferred provider discounts to minimize the City's costs for medical services, resulting in unnecessary costs of approximately \$1.1 million annually for WCD health care services;
- Inadequate design and utilization of management information systems for which the WCD expends approximately \$741,000 annually; and,

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- Inattention to the need for program data concerning the City's workers compensation program.

The organizational placement of the WCD within the Employees Retirement System contributes to these deficiencies because the Retirement Board is not fully accountable to the Mayor or the Board of Supervisors, the Charter limits the appointment of Retirement Board members with specific expertise in workers compensation law and procedure, and the Retirement Board's primary duty to manage the investments of the \$5.9 billion Retirement Trust Fund is functionally unrelated to managing a workers compensation program.

We recommend that the WCD should be transferred to the new Human Resources Department under a Benefits Administrator, who would coordinate policy development for all of the City's employee benefit programs and oversee the administration of the WCD. The WCD would join the Health Service System, which is to be transferred no later than October 1, 1995, at the Department of Human Resources. This would be compatible with the previously approved Charter Amendment enabling the WCD and the Health Service System to be transferred to the Human Resources Department.

Advantages of this recommended organizational structure include increased accountability for the operations of the WCD, an increased opportunity for the city to develop expertise and policy guidance in workers compensation, and improved policy development and administrative coordination among employee benefit programs which are functionally related.

Section 1.2: Procurement of Claims Administration Services

The City's claims administration functions are now divided between the WCD and a third party administrator (TPA), and a decision is needed concerning whether claims will be administered by the WCD or by a TPA. There are more advantages and fewer disadvantages to providing claims administration in-house than contracting for such services. However, many aspects of the WCD's claims administration practices would need to be improved in order to operate an effective claims administration unit. The WCD should establish written policies and procedures, procure standard reference materials, develop and implement comprehensive personnel policies and staff development activities, restructure its health care delivery system, implement utilization review procedures to control medical costs, develop and implement an integrated management information and payment processing system, design and develop systems to collect relevant workers compensation program data, re-evaluate its use of independent contractors in lieu of Civil Service staff, and implement competitive selection procedures for approximately \$6.3 million in annual contract services, before resuming responsibility for administering benefits in all of the City's workers compensation claims.

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In accordance with Charter requirements, we recommend that the City should continue to utilize the services of a third party claims administrator on a temporary basis, until effective systems have been developed for the administration of all of the City's workers compensation claims by the WCD. The WCD, in conjunction with the Mayor's Office and the Workers Compensation Task Force, should negotiate with the Noetics Group for continued administration of workers compensation claims beyond the expiration of the current contract on June 30, 1994.

The new Department of Human Resources, which the Budget Analyst recommends should assume oversight of the WCD, should develop a strategic plan and proposed operating budget for assuming all claims administration functions by WCD staff. The strategic plan and proposed operating budget should be used to compare the City's costs with TPA contract costs in any request to certify a TPA contract under "Proposition J." The WCD should extend the TPA contract through June 30, 1996, pending the development of a strategic plan and proposed operating budget for the administration of all claims by the WCD.

Section 2: Internal Administration of the WCD

Section 2.1: Policies and Procedures

The Workers Compensation Division has not established formal policies and procedures which are essential for the effective administration of workers compensation claims. Among surveyed WCD employees, 71 percent stated that standard policies and procedures were "essential" for the performance of their duties, but 100 percent of WCD staff who responded to our survey rated WCD policies and procedures as less than satisfactory. Unlike workers compensation programs in most other cities and counties, the WCD does not have a written policies and procedures manual. As a result, operating procedures (such as the review of medical bills) are conducted inconsistently by WCD staff, claims examiners lack specific guidelines for investigating claims in order to accept or reject liability, the effects of new legislation have not been clearly articulated to staff who administer benefits, and the WCD lacks an overall strategy for controlling workers compensation costs. The WCD should prepare and implement comprehensive policies and procedures for claims administration, records management, and personnel practices.

Section 2.2: Personnel Administration

The ERS has not managed human resources effectively. The Department has not developed consistent Civil Service classifications based on standard minimum requirements, has not specified clear criteria for promotion for claims examiner trainees and others, and has engaged in arbitrary hiring and

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promotion practices. Examples of arbitrary hiring and promotion practices which we have identified include (1) failing to comply with Civil Service Commission rules for administering a competitive Civil Service exam, (2) promoting an individual who lacked the required minimum experience, (3) failing to clearly specify the criteria for promotion to Class 8141 Claims Adjuster of employees who were hired as claims adjuster trainees; and (4) revising Claims Supervisor position requirements to delete any prior claims examining experience, apparently to promote a specific employee who lacked required workers compensation experience, but who is reportedly related by marriage to an ERS manager. This final example has led to allegations by WCD staff of nepotism on the part of WCD managers.

As a result, the Department has impeded efforts to attract and retain highly trained workers compensation technical staff who administer approximately \$38.5 million in annual benefits, has contributed to poor morale and perceptions of inequity among WCD staff, and has not provided opportunities for promotion based on clearly identified Civil Service requirements.

Implementation of our recommendations would result in improved management of human resources in the WCD, which would, in turn, result in improved employee morale, improved coordination of claims administration functions, and enhanced opportunities for staff development, promotion, and retention.

Section 2.3: Training and Reference Materials

The WCD has not provided training programs and reference materials which are essential for the effective administration of claims. Due to the complex legal, factual, and medical issues which determine the City's workers compensation costs, a highly skilled technical staff is the City's first defense (after effective accident prevention) against unnecessary workers compensation costs. Most WCD employees, including 100 percent of claim supervisors, state that comprehensive training in workers compensation law and procedure is "essential" for the performance of their duties. Most other cities and counties which were surveyed by the Budget Analyst provide significantly more training to workers compensation technical staff.

However, the WCD's limited training opportunities have been allocated inappropriately among WCD managers and staff, and only very limited training has been provided to claims examiners and claims examiner "trainees" who authorize workers compensation benefits. Of the WCD's total expenditures of \$5,300 over the last two years for training activities, only \$739 or 13.9 percent was allocated for training eleven claims examiner "trainees," and one claims examiner "trainee" received no formal training whatsoever. In addition, the WCD does not provide basic workers compensation reference materials which are

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available in all or most of the 15 other California jurisdictions which responded to our workers compensation survey.

The WCD should establish staff training as a priority, should allocate \$26,280 to train its technical staff in workers compensation law and procedure, and should expend \$570 to provide the minimum necessary reference materials which are needed to manage the City's workers compensation claims.

Section 3: Administration of Workers Compensation Benefits

Introduction/Estimated Cost Savings

Our review of claims administration practices indicates that the WCD has not implemented basic standards, procedures, and quality control efforts which are needed for effective claims administration. In the past, WCD managers have attributed these deficiencies to the City's escalating caseloads. However, high caseloads point to a need for more aggressive management of the City's workers compensation program, rather than the neglect of standard operating procedures that we have observed.

We have not conducted a detailed analysis of individual claims in order to determine whether specific benefits were provided appropriately. This would have required judgments concerning medical, legal, and factual issues in individual claims which could not be readily verified. In the course of our audit, we reviewed two separate samples of 100 workers compensation claims; one sample consisted of new claims filed during 1992-93, while another represented a cross section of claims which were active in November, 1992. We reviewed WCD records concerning these claims, including claims examiners notes, medical reports, expenditure data maintained on the WCD's Corporate Systems claims management information system, and Reviewco data concerning the review and adjustment of medical bills, for each of these separate samples of claims. We found that the data derived from these sources did not provide meaningful insight into the WCD's claims administration practices; rather, this review tended to raise more questions than were answered. As noted in the introduction of our report, previous management audits have been performed by Warren, McVeigh and Griffin, a risk management consulting firm, in 1982, 1984, and 1990. Each of these previous audits found serious deficiencies in the WCD's claims administration practices.

Because of the complex medical, legal, and factual questions presented in workers compensation claims, and because of the poor quality of current WCD record systems, it is not possible to quantify precisely the amount of savings which the City would realize through improved WCD claims administration practices. However, available evidence suggests that significant cost reductions can be achieved through enhanced claims administration practices. For instance:

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- As noted at page 10 of the Introduction to this report, the WCD's benefit expenditures for new claims in 1991-92 were an estimated \$9.9 million or 159 percent higher than would be expected based on the average experience of 15 other California cities and counties, with regard to the number of new claims and the average cost of claims, among new claims filed in 1991-92.
- The Golden Gate Bridge, Highway and Transportation District reduced its overall workers compensation costs by more than 20 percent over a nine-month period during 1988. District managers directly attributed this cost reduction to a number of specific improvements in claims administration practices, as described at page 82 of this report;
- The Noetics Group has observed that even a small reduction in the period of temporary disability can result in substantial savings for temporary disability benefits. At the current weekly temporary disability compensation rate of \$336, a reduction of one week in the period of temporary disability for each claimant can save \$336,000 for each 1,000 claimants. The WCD estimates that approximately 4,900 new temporary disability claims are filed with the WCD each year.¹ Thus, a reduction of one week in the period of authorized disability for each of these new claimants would result in savings of approximately \$1.7 million annually.
- Our review of WCD expenditures for physical therapy services alone reflects that the WCD could have saved between \$1.4 million and \$3.0 million in 1991-92 (a reduction of 39.2 to 84.8 percent), and between \$359,000 and \$826,000 in 1992-93 (a reduction of 34.6 to 79.8 percent), by monitoring these services to prevent excessive levels of treatment (as discussed in Section 3.3). We found that over these two fiscal years, the average duration of physical therapy authorized by the WCD was 21 weeks of treatment, or 200 percent in excess of the State-wide average duration of only seven weeks of physical therapy treatment. Savings from more effective control over other medical services would be in addition to these savings for physical therapy services.

A reduction of 10 percent in the City's total workers compensation benefit costs, below 1992-93 levels, would result in annual savings of approximately \$3.9 million. A 20 percent reduction, comparable to that achieved by the Golden Gate Bridge, Highway and Transportation District (GGBHTD), would entail savings of

¹ In our sample of 100 new claims which were filed in 1992-93, the average period of disability leave was approximately 32 days.

twice this amount, or \$7.8 million. Given the experience of the GGBHTD, a 20 percent cost reduction should be anticipated if the recommendations we have made in this report are fully implemented. Our more conservative 10 percent estimate represents a reasonable minimum estimate of the savings which the WCD should achieve through more effective claims administration practices. Some of these savings for benefit expenditures may already be accruing to the City as the result of more effective claims administration practices resulting from the addition of a third party claims administrator during 1993-94. The areas in which improved claims administration practices are needed are discussed in individual subsections of Section 3, and are summarized below.

Section 3.1: Determining Liability for Workers Compensation Claims

The WCD has not developed guidelines for determining whether the City should accept financial liability for new claims. Because it has not investigated claims in order to determine the City's liability, 73 percent of claims examiners state that the WCD incurs benefit costs for injuries which are not the liability of the City. The WCD should establish formal guidelines for investigating claims, in order to reject liability for claims which should not be compensated by the City.

Section 3.2: Temporary Disability Benefits

Temporary disability benefits are paid to injured workers based on disability determinations which are made by treating physicians. However, physicians may approve disability leave more often than is necessary, as a result of (1) relying on the employee's "subjective complaints," rather than "objective medical evidence," to determine whether the employee can return to work, (2) the physician's concern to avoid the risk of professional liability, resulting in a more liberal approach to approving disability leave; or (3) a physician's financial interest in extending medical treatment for a longer period of time than is reasonably necessary. Under State law, a physician's determination of whether a worker is disabled and unable to return to work cannot be challenged except by a further medical opinion. As previously noted, we are not qualified to evaluate the propriety of medical opinions of an employee's disability status in individual workers compensation claims.

In order to reduce the City's costs for temporary disability benefits, based on physicians' determinations of disability, the WCD should provide physicians with specific information concerning job requirements, and monitor the performance of physicians in determining that an injured employee is temporarily disabled and unable to return to work.

In addition, the WCD should assign responsibility to the WCD Qualified Rehabilitation Representative to design and implement a modified duty program for City workers, which will enable employees to return to work within any

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applicable medical restrictions. Such a modified duty program has significant potential to reduce the City's workers compensation costs.

We estimate that the WCD should realize savings of \$1.8 to \$4.2 million annually through more effective claims administration practices and the implementation of a modified duty program.

Section 3.3: Control of Medical Treatment

Reviewing the utilization of medical care by injured workers to ensure that they are not receiving unnecessary services can help contain workers compensation costs. The WCD does not conduct such utilization reviews. For example, the WCD has not established procedures for claims examiners to review medical treatment and monitor the level of service; levels of physical therapy care are substantially higher than the California average; and the role of the WCD Medical Coordinator has not been clearly defined. Based on our analysis, as previously stated, we estimate that the WCD expended between \$1.4 and \$3 million in 1991-92, and between \$359,000 and \$826,000 in 1992-93, for unnecessary physical therapy costs alone.

We conservatively estimate total savings through more effective controls of medical treatment at \$1.8 million. The WCD should develop and implement more effective utilization review procedures for medical services, including guidelines for prior approval of certain treatments (such as high-cost diagnostic procedures) based on appropriate medical and cost criteria. The WCD should also clearly define the role of the Medical Coordinator.

Section 3.4: Permanent Disability

The WCD has not developed uniform standards and procedures for determining permanent disability benefits. Specifically, settlement authority limits have not been clearly established in order to monitor and control the amount of financial settlements which are authorized, based on the examiner's experience; quality control procedures have not been implemented in order to reduce the risk of duplicative awards, based on comprehensive records of prior settlements; and complex financial calculations are performed manually, without quality controls which should be in place to confirm these benefit calculations. Without these quality control measures, the City is at risk of paying more than necessary in permanent disability benefits. We estimate that a reduction of at least \$195,000 annually could be realized in permanent disability benefits through more effective claims administration practices.

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Section 3.5: Vocational Rehabilitation

The WCD contracts for the services of vocational rehabilitation counselors to provide mandated rehabilitation services which are required to return an injured employee to "suitable gainful employment." However, the WCD does not oversee the level or scope of services provided by these contractors. Claims examiners do not assess the eligibility of injured workers for rehabilitation benefits, do not participate in the development of vocational rehabilitation plans, and do not monitor vocational rehabilitation expenditures. However, vocational rehabilitation represents a significant cost to the City which should be carefully monitored. In the absence of effective controls, the WCD paid \$8,232 in tuition costs to Cornell University, in order to return the employee to "suitable gainful employment." We assume that there are less costly alternatives for providing required vocational rehabilitation benefits than subsidizing an employee's tuition at an Ivy League University. We estimate that the WCD could realize annual savings of at least \$85,000 by monitoring vocational rehabilitation benefits.

Section 4: Administration of Disability Retirement Benefits

The WCD administers disability retirement benefits which are authorized under the City Charter, but which are not State-mandated workers compensation benefits. The WCD has not developed consistent policies and procedures for the administration of these benefits. In the absence of specific standards for granting disability retirement benefits, disability retirement benefits are administered inconsistently, according to whether a department has offered a light duty assignment to the employee. As a result, disability retirements were granted to Fire Department uniform personnel at 20 times the disability retirement rate for uniform personnel in the Police and Sheriff's Departments over the last three years.

Under the Charter, "Tier I" police officers and firefighters are entitled to maximize temporary disability benefits before being retired on the basis of a permanent disability, resulting in increased expenditures for workers compensation benefits of an estimated \$227,640 to \$341,459 annually. However, "Tier II" police officers and firefighters, and other public safety officers, are not entitled to receive maximum temporary disability benefits before retiring due to permanent disability. Therefore, the WCD should develop a policy that, for non-Tier I public safety employees, the effective date of a disability retirement should be based on the date that permanent disability has been medically determined, rather than being negotiated with the employee in a way which permits the employee to exhaust full salary temporary disability benefits before retiring on the basis of a permanent disability, as is currently done.

In addition, the recommended Benefits Administrator in the Department of Human Resources should seek to integrate the provision of medical treatment for

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employees who are retired on the basis of an industrial disability with other employee health care benefits which are provided to retired employees by the Health Service System.

Section 5: Information Resources

Section 5.1: Management Information Systems

The WCD has not implemented effective management information systems. Claim and expenditure information is maintained on four separate computer systems, resulting in unnecessary data processing errors (such as truncated warrant numbers, which cannot be used to identify and locate processed warrants), and a lack of accurate expenditure data for claims examiners. No automated verification that a valid claim exists is required before payments are authorized and issued to beneficiaries. Unnecessary labor costs are incurred in order to input data and to reconcile data generated by different systems. As a result, claims examiners lack reliable data concerning claims, mistakes can occur when determining benefits (since claims examiners are unable to identify the nature and amount of previous benefits which have been provided), quality control efforts are impeded, and the City lacks meaningful management information concerning its workers compensation program.

To correct these deficiencies, the WCD should procure an integrated management information and payment system through competitive selection procedures. Such a system could reduce the WCD's annual expenditures for management information services, below the current level of approximately \$741,000 annually. The cost of such a system will depend on the results of a needs analysis, Request for Proposal, and competitive selection procedure. However, the City of San Jose recently procured a new management information system for its workers compensation program at a one-time cost of \$205,297, and expends only \$6,300 annually to operate the system.

Section 5.2: Analysis of Program Data

The WCD has not developed systems to monitor important program data concerning the City's workers compensation program. The WCD has not monitored the number of active claims, the cost of disability retirement benefits as distinguished from workers compensation benefits, the total cost of permanent disability benefits (which are sometimes recorded as temporary disability benefits) and the total cost of vocational rehabilitation benefits. The WCD's inaccurate reporting of program costs interferes with the Division's accountability for claims management, prevents meaningful analysis of financial data, hinders analysis of the financial impacts of significant legislative changes, and prevents the use of management information to control workers compensation costs. The WCD should generate reliable program data for managing the workers compensation

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program, including the underlying causes of workers compensation claims, the number of claims, the amount of claim reserves assigned by claims examiners, and the City's actual costs for each major benefit category.

Implementation of these recommendations would result in increased accountability for the WCD, increased ability to implement workers compensation cost containment strategies, and more accurate budgeting and monitoring of operating and claim expenditures.

Section 6: Contracting Procedures

The WCD expends more than \$9.6 million annually for the services of independent contractors, including the Noetics Group (the City's third party claims administrator); Saint Francis Memorial Hospital (which operates the Franciscan Treatment Room, the City's primary medical care facility for injured workers); Reviewco (a medical bill review company); Corporate Systems (which provides the leased claims management information system); the consulting firm of Ayers & Co. (which provides rehabilitation services as the WCD Qualified Rehabilitation Representative); the WCD Medical Coordinator (who performs medical case management services); and numerous referral physicians and vocational rehabilitation counselors. However, more than \$6.3 million is expended annually on services which were not procured through competitive procedures, including an estimated \$2.5 million for the services of Saint Francis Memorial Hospital.

In lieu of competitive procedures, the WCD has relied extensively on independent contractors to procure the services of other independent contractors, such as, (1) referral physicians who have been selected by Saint Francis Memorial Hospital, (2) vocational rehabilitation counselors who have been selected by the Ayers & Co. representative; (3) the CompAlliance preferred provider network of workers compensation health care providers, procured through the WCD contract with Reviewco, a medical bill review company, (4) additional preferred providers of health care services who have been selected by the Medical Coordinator; and, (5) the Corporate Systems claims management information system, which was implemented on the recommendation of the previous contractor, Alexander & Alexander.

In addition to the WCD's failure to competitively bid more than \$6.3 million in annual contract services, statements by WCD managers reflect a fundamental misunderstanding concerning the WCD's responsibility to procure services competitively in order to minimize total costs to the City.

The WCD has not entered into written contracts with Ayers & Co. (which serves as the Qualified Rehabilitation Representative) or with the Medical

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Coordinator. Ayers & Co. was paid \$74,740 in 1992, and the Medical Coordinator was paid approximately \$60,000 in 1992 by the WCD.

The WCD should conduct a thorough analysis of all services which are currently performed by independent contractors, and abolish unnecessary or duplicative services, employ Civil Service positions for services which are permanent in nature and which can be performed at lower cost by Civil Service employees than by outside contractors, implement competitive selection procedures for any services which will continue to be performed by independent contractors, and enter into written contracts with all of its independent contractors.

Section 7: Health Care Delivery Systems

Section 7.1 Comparative Costs and Preferred Provider Discounts

The WCD has not complied with Administrative Code requirements to report annually to the Board of Supervisors concerning the comparative costs of medical services which are provided in workers compensation claims. Our analysis of the WCD's medical costs reveals that the WCD has not negotiated appropriate preferred provider discounts with its principal health care providers. We estimate that the WCD could realize annual savings of approximately \$1.1 million, based on the current level of medical services, by negotiating more favorable preferred provider discounts.

This \$1.1 million in estimated savings consists of an estimated \$407,045 in additional discounts which are currently available to the WCD for medical services now provided by Saint Francis Memorial Hospital, under the State's Official Medical Fee Schedule and the CompAlliance preferred provider network; \$253,651 in preferred provider discounts for the services of referral physicians, including 25 physicians who comprised only 7.9 percent of all WCD referral physicians, but received \$1,868,511 or 73.7 percent of total 1992-93 expenditures of \$2,536,591 for the services of referral physicians, without providing any preferred provider discounts; \$350,000 which could be saved by directly negotiating preferred provider discounts with health care providers (including Saint Francis Memorial Hospital), and eliminating the \$350,000 annual fee paid to Reviewco for the use of Reviewco's proprietary CompAlliance preferred provider network; and \$53,800 by negotiating a more favorable discounted rate of \$618 (comparable to the rate currently paid by the Health Service System) for Magnetic Resonance Imaging (MRI) diagnostic procedures, rather than the WCD's current rate for MRI procedures of \$725, which is 17 percent more than is paid by the Health Service System.

The WCD should modify its contract with Saint Francis Memorial Hospital, its primary medical care provider, in order to obtain rates for health care services

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which are competitive with other workers compensation health care providers, as discussed in Section 7.1. As shown in Table 7.1 (page 175) of this report, current Saint Francis Hospital contract rates for routine office visits exceed the rates established in the State's Official Medical Fee Schedule, including a contract rate for visits in the emergency room which are 81.2 percent higher than applicable rates under the Official Medical Fee Schedule. If the hospital is unwilling to accept such modifications, the contract should be cancelled following a 90-day notice, and alternative health care providers should be used until a new primary medical care provider can be retained. The WCD should also negotiate other more favorable preferred provider rates as discussed in this section of our report. The WCD should comply with current Administrative Code requirements that it report annually to the Board of Supervisors concerning the comparative cost of health care services.

Section 7.2 Alternative Health Care Delivery

In order to institute more effective controls on the provision of medical treatment in workers compensation claims, the WCD should restructure its health care delivery systems by competitively bidding a new contract for the initial medical evaluation and treatment of injured workers, in lieu of the evaluation and treatment services which have been provided by Saint Francis Memorial Hospital since 1982, without having been competitively bid. The WCD should also develop an independent panel of referral physicians who will provide ongoing medical treatment services, following initial evaluation and treatment at the WCD's primary medical facility. By separating the initial medical evaluation of employees from ongoing treatment services, the WCD can exert greater control over the level and quality of medical care which is provided to the City's injured workers.

Section 7.3 Workers Compensation Health Care Organizations

In order to provide more effective controls over medical treatment costs in workers compensation claims, the State Legislature has authorized the creation of Workers Compensation Health Care Organizations (WCHCOs). The use of WCHCOs may enable the City to exert greater control over the choice of treating physicians for work-related injuries, benefit from established standards for the delivery of medical care, and develop more comprehensive preferred provider networks for WCD health care services. Workers compensation program managers should re-assess the City's workers compensation health care delivery systems in light of recent State legislation which creates workers compensation health care organizations.

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Section 7.4 Integration with the Health Service System

Both the WCD and the Health Service System provide employee health care services which are paid directly by City funds. The City should coordinate the delivery of these services to ensure that they are provided in the most cost effective manner. There may be opportunities to reduce the cost of employee health care services by (1) consolidating or coordinating functions now performed separately by the HSS and the WCD, including payment processing, utilization review, and medical case management services; (2) negotiating the most favorable preferred provider discounts based on the high volume of health care services which are provided through the HSS and the WCD; and (3) analyzing the availability of health care organizations to provide a full range of employee health care services, including treatment for work-related injuries.

The recommended Benefits Administrator in the Department of Human Resources should analyze the potential costs savings which could be realized by integrating HSS and WCD health care services, and report to the Workers Compensation Task Force and the Board of Supervisors concerning this review.

Report Recommendations

Based on the findings contained in this report, we have made the following recommendations:

Section 1.1

We recommend that the Board of Supervisors should:

- 1.1-1 Adopt an ordinance to transfer the functions and responsibilities of the WCD to the new Human Resources Department, as authorized by the recent "Proposition L" Charter Amendment which created the Department of Human Resources;
- 1.1-2 Obtain clarification from the City Attorney concerning Charter requirements concerning the administration of disability retirement benefits, and propose a Charter amendment to transfer disability retirement functions which are now performed by the WCD to the Department of Human Resources, if such a transfer is not currently authorized under the recent Proposition L Charter Amendment;
- 1.1-3 Approve the creation of a Benefits Administrator position within the Department of Human Resources;

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We recommend that the Human Resources Department should appoint a Benefits Administrator to:

- 1.1-4 Oversee the integration of the Workers Compensation Division within the Human Resources Department;
- 1.1-5 Oversee the development of the WCD's strategic plan, to be completed by July 1, 1995; and,
- 1.1-6 Undertake management initiatives to ensure that the City's workers compensation program is managed in an effective manner.
- 1.1-7 Oversee the integration, including potential coordination or consolidation, of health care services which are now provided separately by the WCD and the Health Service System.

We recommend that the City Attorney should:

- 1.1-8 Clarify the extent to which the recent Charter Amendment authorizes the transfer of jurisdiction over disability retirement benefits from the Employees Retirement System to the Department of Human Resources.

Section 1.2

We recommend that the WCD should:

- 1.2-1 Negotiate with the Noetics Group for continued third party administration of workers compensation claims beyond the expiration of the current contract on June 30, 1994, and,
- 1.2-2 Extend the current TPA contract through June 30, 1996, pending the development of a strategic plan for management improvements within the WCD.

We recommend that the Department of Human Resources should:

- 1.2-3 Establish a target date of July 1, 1996 for assuming all workers compensation claims administration activities, and take necessary steps to recruit, hire, and train an appropriate number of qualified workers compensation claims adjusters for the WCD.
- 1.2-4 Seek to obtain Proposition J certification for TPA services based on the proposed WCD operating budget developed by the Department of Human Resources as part of the WCD strategic plan, compared to proposed TPA

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contract costs, if the Department of Human Resources wishes to continue to utilize the services of the third party administrator after July 1, 1996.

Section 2.1

We recommend that the WCD should:

- 2.1-1 Review the applicability of the third party claims administrator's policies and procedures manual to the internal claims administration practices of the WCD;
- 2.1-2 Prepare and implement a comprehensive policies and procedures manual in the areas of claims administration, records management, and personnel policies, which incorporates new legal requirements for the administration of benefits; and,
- 2.1-3 Ensure that comprehensive policies and procedures are accessible and clearly communicated on a continuous basis to claims examiners and other WCD staff.

Section 2.2

We recommend that the WCD should:

- 2.2-1 Develop and implement comprehensive personnel policies, including written performance standards, regular performance evaluations, and internal staff development activities to enhance the retention and promotion of employees from within the organization;

We recommend that the Civil Service Commission should:

- 2.2-2 Conduct an investigation of the WCD's promotion of an individual to the position of 8141 Claims Adjuster who apparently did not meet the stated minimum requirements, and take corrective action based on applicable Civil Service Commission rules;
- 2.2-3 Clearly specify the criteria for 1812 Assistant Retirement Analysts to qualify for the 8141 Claims Adjuster position, re-open the position announcement for Class 8141 Claims Adjuster, and administer an examination for this position in accordance with Civil Service Commission rules if a sufficient number of qualified applicants respond to the announcement;
- 2.2-4 Review the conditions under which the December 1, 1992 examination for Class 8141 Claims Adjuster was administered, and take appropriate

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corrective action in light of Civil Service Commission Rule 9A.01, which requires that examinations be administered on a competitive basis unless approval for a non-competitive examination is obtained from the Civil Service Commission and the Board of Supervisors;

- 2.2-5 Provide an objective assessment of the circumstances surrounding the examination, appointment, and promotion over time of an employee who is reportedly related by marriage to an ERS manager who has had responsibility for managing ERS personnel functions, and take any appropriate corrective action in light of any applicable Civil Service Commission rules;
- 2.2-6 Clarify its criteria for approving modifications to position requirements in highly complex technical, professional, and legal specialty areas, such as workers compensation;
- 2.2-7 Re-establish minimum qualifications for Workers Compensation Claims Supervisors which include four years of prior experience in examining workers compensation claims;
- 2.2-8 Specify appropriate minimum qualifications for employees in each of the classifications proposed to be created in the *Proposal to Establish a New Employee Benefit Series* which was developed by the ERS and HSS;
- 2.2-9 Postpone further action on the *Proposal to Establish a New Employee Benefit Series*, pending a review of the proposed new classification series by the Benefits Administrator in the Department of Human Resources.

Section 2.3

We recommend that the WCD should:

- 2.3-1 Evaluate the training needs of individual claims examiners on a regular basis, and provide training programs in response to specific identified needs;
- 2.3-2 Implement comprehensive training programs for all WCD staff in lieu of irregular "one-on-one" training activities;
- 2.3-3 Provide at least 20 hours per year per employee of regular in-house training. Such in-house training activities should be developed immediately, in light of significant recent changes in State workers compensation laws;

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- 2.3-4 Establish appropriate priorities for the training of clerical staff, claims examiners, claim supervisors, and managers, with particular attention to the training of claims examiners in legal and procedural issues which affect cost control efforts;
- 2.3-5 If training is achieved most cost effectively by training Claims Supervisors, and conducting in-house training for line staff shortly thereafter, establish a policy of scheduling in-house training within two weeks of training courses by Claims Supervisors;
- 2.3-6 Request \$26,280 in training funds to be expended for Insurance Educational Association and Industrial Claims Association seminars for all claims examiners in FY 1994-95;
- 2.3-7 Request \$547 to procure additional reference materials, as outlined in this report.

We recommend that the Board of Supervisors should:

- 2.3-7 Approve Department requests for \$26,280 for training and \$547 for reference materials.

Section 3.1

We recommend that the WCD should:

- 3.1-1 Provide specific guidance and direction to claims examiners concerning the circumstances under which claims can be denied.
- 3.1-2 Establish comprehensive policies and procedures for the investigation of each reported injury by claim examiners, and provide training in workers compensation issues to department representatives to facilitate liability determinations.

Section 3.2

We recommend that the WCD should:

- 3.2-1 Provide physicians with specific information concerning job requirements, so that the treating physician can make an informed appraisal of the employee's ability to return to work;
- 3.2-2 Monitor the performance of physicians in determining that an injured employee is temporarily disabled and unable to return to work;

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- 3.2-3 Assign responsibility for development and implementation of a Modified Duty Program to the WCD Qualified Rehabilitation Representative (QRR).

We recommend that the Qualified Rehabilitation Representative should:

- 3.2-4 Submit specific recommendations to the Mayor, the Civil Service Commission, and the Workers Compensation Task Force for a modified duty program, including (1) an inventory and assessment of current modified duty programs in City departments, (2) a strategy for using previous job analyses to define the functional requirements of the City's employment classifications, and (3) a plan for the City's modified duty program, including the impact of proposed Civil Service Commission Rule 35 and the role of the WCD in implementing the plan.

Section 3.3

We recommend that the WCD should:

- 3.3-1 Develop formal utilization review procedures for the approval of medical treatment services by claims examiners;
- 3.3-2 Document its policies and procedures for utilization review of medical treatment services;
- 3.3-3 Instruct treating physicians to obtain pre-authorization of medical treatment which meets established criteria for utilization review; and,
- 3.3-4 Provide specific justification for the services of a Medical Coordinator in order to continue these services after fiscal year 1994-95.

Section 3.4

We recommend that the WCD should:

- 3.4-1 Ensure that claims examiners are properly trained and evaluated in the administration of permanent disability benefits;
- 3.4-2 Review its quality control procedures for the review of previous financial settlements, and implement any necessary improvements to avoid duplicative payment of permanent disability benefits;
- 3.4-3 Establish a central source of information concerning prior permanent disability awards;

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- 3.4-4 Perform calculations of permanent disability awards using a computer program designed for this purpose, and these calculations should be subject to review and approval by claims supervisors;
- 3.4-5 Institute specific settlement limits for claims examiners, based on their experience in rating permanent disabilities and calculating permanent disability awards. Any proposed settlement which exceeds the examiner's settlement authority should be reviewed by a claims supervisor.

Section 3.5

We recommend that the WCD should:

- 3.5-1 Ensure that the eligibility of City employees for vocational rehabilitation services is monitored by claims examiners, and not made independently by independent contractors;
- 3.5-2 Monitor the activities of independent contractors who provide vocational rehabilitation services for injured workers; and,
- 3.5-3 Ensure that invoices submitted by vocational rehabilitation counselors are reviewed by claims examiners.

Section 4

We recommend that the proposed Benefits Administrator recommended in Section 1.1 of this report should:

- 4.1 Recommend appropriate policies and standards for the use of light duty assignments as an alternative to disability retirement benefits, in order to ensure that disability retirement benefits are administered equitably and in the most cost effective manner;
- 4.2 Report to the Mayor and the Workers Compensation Task Force concerning the performance of individual departments in making light duty assignments available to injured workers, the reasons for any restrictions on the use of light duty assignments for any department or class of employees, and the effect of light duty programs on the City's overall disability retirement costs;
- 4.3 Monitor the City's overall costs of disability retirement benefits, in order to analyze the costs and benefits of the City's disability retirement program;

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- 4.4 Seek to integrate the provision of medical treatment for employees who are retired for disability with other employee health care benefits which are provided to retired employees by the Health Service System.

We recommend that the Employees Retirement System should:

- 4.5 Institute a policy which provides that the effective date of retirement for non-Tier I public safety employees who are retired due to an industrial disability will be established based on the date that medical evidence is obtained that the employee is permanently disabled, and that no further improvement in the employee's medical condition is anticipated.

Section 5.1

We recommend that the WCD should:

- 5.1-1 Work with the Controller and the Workers Compensation Task Force to develop a plan for an integrated management information system for the WCD which unifies functions which are now performed by four separate computer systems, and which includes appropriate accounting controls, as determined by the Controller;
- 5.1-2 In cooperation with the Controller, prepare a Request for Proposal to solicit proposals for an integrated claims management information and payment system; and,
- 5.1-3 Based on the results of the competitive selection process, compare the costs and benefits of an integrated management information system with the current annual cost of approximately \$741,052 for management information services which are now provided by Corporate Systems, Reviewco, the Controller's Information Services Division, and the Noetics Group.

We recommend that the Controller should:

- 5.1-4 Assist the WCD to develop a Request for Proposals and to consider proposals for an integrated claims management and payment system which includes appropriate accounting controls, as determined by the Controller.

Section 5.2

We recommend that the WCD should:

- 5.2-1 Prepare monthly statistical reports to reflect the number of active indemnity, "future medical," "life pension," and "medical only" claims, as well as the number of new claims filed, claims closed, and claims denied;
- 5.2-2 Develop standard procedures for the maintenance of claim reserves by claims examiners, and utilize claim reserve data to develop annual budget estimates for the City's workers compensation costs;
- 5.2-3 Identify workers compensation program data which will be compiled and reported on a regular basis;
- 5.2-4 Assign a qualified individual to work with the Workers Compensation Task Force, the Risk Manager, the Noetics Group, Corporate Systems representatives, and the WCD Office Manager to develop enhanced workers compensation program data. The appointed WCD representative should identify the type of data which is currently needed for management purposes within the WCD and by outside department managers and City officials;
- 5.2-5 Ensure that claims data is identified, organized, encoded, and entered in the claims management system according to established guidelines for the management of information; and,
- 5.2-6 Develop standard reporting formats which convey accurate information to WCD managers, department representatives, and City officials concerning the costs, causes, duration, and other important attributes of the City's workers compensation claims.

Section 6

We recommend that the WCD should:

- 6.1 Conduct a thorough analysis of all services which are currently performed by independent contractors;
- 6.2 Abolish unnecessary or duplicative services which are currently provided by independent contractors;
- 6.3 Employ Civil Service positions to perform services which are permanent in nature, including vocational rehabilitation services;

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- 6.4 Implement competitive selection procedures for any services which will continue to be performed by independent contractors;
- 6.5 Enter into written contracts with any independent contractors who perform services at the discretion of the WCD;
- 6.6 Improve its monitoring of contractor payments and performance.

Section 7.1

We recommend that the WCD should:

- 7.1-1 Modify its contract with Saint Francis Memorial Hospital (SFMH) to obtain discounts which are recommended in this report. If SFMH is unwilling to accept such modifications, the contract should be cancelled following a 90 day notice, and arrangements should be made for City workers to obtain treatment from other physicians designated by the WCD or from their personal physicians, until an alternative medical contractor can be retained;
- 7.1-2 Negotiate preferred provider discounts with all referral physicians who receive WCD referrals, in amounts which are at least 10 percent below the rates established under the State's Official Medical Fee Schedule;
- 7.1-3 Analyze the feasibility of directly negotiating preferred provider discounts with health care providers who are affiliated with the CompAlliance PPO network;
- 7.1-4 Seek to negotiate a preferred provider rate of no more than \$618 for Magnetic Resonance Imaging procedures;
- 7.1-5 Analyze all of its medical and health care services in order to identify opportunities for additional preferred provider discounts;
- 7.1-6 Report annually to the Board of Supervisors concerning the comparative cost of medical services, as required under the Administrative Code.

Section 7.2

We recommend that the WCD should:

- 7.2-1 Undertake competitive selection for a medical facility to provide initial evaluation and treatment of injured workers, to ensure that costs are minimized based on current market conditions;

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- 7.2-2 Develop a preferred provider network of treating physicians who are independent of the medical facility which provides initial evaluation; and,
- 7.2-3 Employ the services of a Health Care Analyst to develop, implement, and evaluate a new health care delivery system. Funding for the Health Care Analyst should be provided through a supplemental appropriation in 1993-94 if a candidate is located in the current fiscal year, and funds should be included in the WCD annual budget in subsequent fiscal years.

We recommend that the Civil Service Commission should:

- 7.2-4 Review the position requirements of the Health Care Analyst classification and make any modifications which may be needed in order to secure the services of a Health Care Analyst for the WCD.

We recommend that the Board of Supervisors should:

- 7.2-5 Approve the new position of Health Care Analyst within the WCD.

Section 7.3

We recommend that the proposed Benefits Administrator in the Department of Human Resources should:

- 7.3-1 Evaluate the cost effectiveness of workers compensation health care organizations to provide workers compensation health care services; and,
- 7.3-2 Report to the Board of Supervisors and the Workers Compensation Task Force concerning the costs and benefits of using WCHCOs to provide workers compensation health care services.

Section 7.4

We recommend that the proposed Benefits Administrator in the Department of Human Resources should:

- 7.4-1 Evaluate the respective fee schedules and medical expenditures of the WCD and the HSS, and develop strategies to maximize the use of preferred provider discounts for all employee health care services;
- 7.4-2 Analyze administrative efficiencies in consolidating or coordinating HSS and WCD services, including (1) exchanging expenditure data, to evaluate whether duplicative payments are being made; (2) instituting centralized payment processing to avoid duplicative payments; (3) consolidating HSS

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and WCD medical case management services, and (4) consolidating HSS and WCD utilization review services; and,

- 7.4-3 Report on the potential integration of HSS and WCD health care organizations to provide workers compensation health care services in addition to standard employee health care benefits.

Savings and Cost Estimates

The proper implementation of the recommendations made by the Budget Analyst, as contained in this report, would result in reduced expenditures of an estimated \$5.3 to \$9.9 million annually in total WCD operating costs and benefit expenditures, below the 1992-93 total cost of \$41.5 million (\$38.5 million for benefit expenditures and \$3 million for WCD operating costs). This range of potential savings represents our low-end and high-end estimates of savings which we have identified throughout this report. In addition to these identified savings, the WCD should realize additional savings of an indeterminate amount by implementing competitive selection procedures for more than \$6.3 million in annual contract services.

We have identified a need for new expenditures in 1994-95 of approximately \$137,898, excluding the services of the Benefits Administrator position which we have recommended for the Department of Human Resources. This \$137,898 includes \$60,827 for a Health Care Analyst to develop, implement, and evaluate a restructured WCD health care delivery system, \$26,827 to allow claims examiners to attend workers compensation training programs during 1994-95, and \$50,244 to develop and implement a utilization review program for medical services. The need for each of these services should be re-evaluated after fiscal year 1994-95.

Written Response of the General Manager of the Employees Retirement System

The complete written response of the ERS begins on page 203 of this report. The response acknowledges that because the department operates in a "rapidly changing, dynamic, and highly regulated environment," there is "less than an ideal execution of all management tasks confronting the organization." However, the response contains some statements concerning our audit findings which are untrue, misleading, or otherwise unrepresentative of our audit findings. Specifically:

On page three of the department's response, the ERS states that, "the Budget Analyst has not identified any key areas of cost containment which are not currently in place to limit workers compensation costs for the City and County of San Francisco. This statement is untrue. Our report identifies the following key

areas where the WCD has not implemented effective cost controls or cost containment strategies:

- As noted in Sections 2.1 and 2.3, the WCD has not implemented standard operating procedures to guide the administration of workers compensation benefits based on complex legal requirements and medical issues, has not provided adequate training of claims examiners, including claims examiner "trainees," and has not provided its staff with basic workers compensation reference materials. Under these circumstances, we question how the department could reasonably assert that the systems and procedures which are currently in place are adequate for the control of workers compensation costs.
- As noted in Section 7.1 of our report, we estimate that the WCD could realize additional savings of approximately \$407,000 annually for medical services which are currently provided by Saint Francis Memorial Hospital (SFMH), by (1) reducing SFMH medical fees to the rates which are included in the State's Official Medical Fee Schedule, and (2) by obtaining more favorable preferred provider discounts, which are currently available from other vendors but which are not applied to SFMH services. SFMH contract rates are therefore not competitive with the fees charged by other health care providers. As noted in our report, current SFMH contract rates for routine office visits exceed the rates established in the State's Official Medical Fee Schedule, which represents, "prima facie evidence of a reasonable charge" for medical services. The higher costs which are paid to SFMH can be directly attributed to the fact that the WCD has never competitively bid the contract for its primary medical care provider.
- We have noted in Section 3.3 of our report that the WCD has not implemented effective controls on the utilization of medical services to prevent excessive levels of treatment. As a result, San Francisco's injured workers received physical therapy treatment for an average of 21 weeks in fiscal years 1991-92 and 1992-93, compared to the State-wide average length of treatment of only seven weeks. We estimate that, as a result of this excessive level of treatment, the WCD expended between \$1.4 and \$3.0 million in 1991-92, and between \$359,000 and \$826,000 in 1992-93, for physical therapy services which were not reasonably necessary. Since physical therapy is a relatively straight-forward procedure which can be easily monitored, we believe that, as a result of the WCD's inadequate monitoring of physical therapy, the WCD also lacks appropriate controls over other types of medical services.

- In Section 3.4, we note that the WCD has completely delegated the administration of mandated vocational rehabilitation services to independent contractors, and has not monitored the provision of these benefits. In one instance, the WCD subsidized an employee's tuition costs at Cornell University, an Ivy League university, in order to return the employee to "suitable gainful employment." In our judgment, there are less costly alternatives for providing vocational rehabilitation services than to subsidize an employee's tuition costs at one of the nation's most costly private universities.
- As noted in Section 3.1, 73 percent of WCD claims examiners surveyed by the Budget Analyst indicate that more claims could be denied if claims were investigated more thoroughly to determine if the City should accept or reject financial liability. The examiners' opinions were provided in response to an open-ended survey question which asked (a) if claims examiners believed more claims could be denied as non-compensable and (b) if so, what would be "the major reason for these denials." The uniformity of the examiners' responses concerning the need for more intensive investigation of claims points to a serious deficiency in the WCD's procedures for accepting or denying liability for new claims. The acceptance of claims that could be denied leads to an increase in every category of workers compensation benefits.
- We have noted in Section 3.1 that temporary disability benefits are largely controlled by medical opinions concerning the existence of disability, but that the WCD has not effectively monitored the disability determinations made by treating physicians. In Section 3.1 we also report what has already been widely acknowledged, that an effective return to work program is one of the most important strategies for containing workers compensation costs. Although the WCD does not have the authority to develop modified duty assignments on behalf of individual City departments, the WCD should play a central role in advising City departments and other officials concerning the importance of a return to work program and the efficacy of departmental efforts in this area, relative to the City's claim experience.

An obvious source of professional expertise and guidance in this area is the WCD Qualified Rehabilitation Representative (QRR), whose services are mandated under State law, and who is defined in State administrative regulations as a person whose "experience and regular duties involve the evaluation, counseling, and placement of industrially injured workers." We believe that, based on its expertise in workers compensation issues, the WCD should have recognized

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the contribution which could be made by the QRR in the City's development of an effective return to work program for injured workers.

Instead, the WCD has employed independent contractors to provide rehabilitation services, and has not monitored these services to ensure that return to work programs are effectively utilized as part of the City's duty to return employees to "suitable gainful employment." We recommend that the QRR should become a Civil Service position, and that the QRR should develop specific recommendations for the development of an effective modified duty program in order to control the City's workers compensation costs.

On page four of the ERS response, the department states that our recommendation that the administration of disability retirement benefits be transferred to the Department of Human Resources is "fundamentally inconsistent with the appropriate management and oversight of pension benefits as defined in Charter Sections 8.500-8.590-7." This statement is a misinterpretation of our recommendations. As noted at page 120 of our report, the approval or denial of disability retirement applications is delegated under Charter Section 8.518 to independent hearing officers who are retained under contract to the Retirement Board. We have not recommended that the approval or disapproval of disability retirement applications should be transferred to the Department of Human Resources. As noted at page 120-121 of our report, the administration of pension benefits for employees retired for disability is performed by the ERS Retirement Services Division. We have not recommended that the administration of pension benefits should be transferred to the Human Resources Department. Rather, at page 25 of our report, where we discuss organizational alternatives for the administration of disability retirement benefits, we acknowledge that these benefits involve eligibility determinations and benefit administration by a number of agencies, and recommend (1) that the City Attorney clarify the extent to which the recent Proposition L Charter Amendment authorizes the transfer of jurisdiction for disability retirement benefits now administered by the WCD and the Retirement Services Division to the Department of Human Resources, and, (2) if necessary, that the Board of Supervisors sponsor a Charter Amendment to transfer only those functions which are currently being performed by the WCD, to the Department of Human Resources. If this latter recommendation is adopted, it would maintain the current arrangements for the administration of disability retirement benefits by the WCD and other agencies. The ERS does not contend that these current arrangements are inappropriate.

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At page four of the response, the ERS tentatively agrees with our recommendation for an extension of the City's contract for third party administration of claims beyond July 1, 1994. We wish to clarify that we have recommended that the contract be extended for a temporary period only, through June 30, 1996, pending the development of a strategic plan and proposed operating budget for the WCD under the Human Resources Department. Continued third party administration beyond June 30, 1996 should depend on a "Proposition J" certification by the Controller that a contractor can perform claims administration services at less cost than the Department of Human Resources. As noted in Section 1.2, we believe there are significant organizational advantages and stronger management controls in self-administering the City's workers compensation claims, rather than employing a third party administrator.

At page six of its response, the ERS reiterates our finding that there is no central location at the WCD for maintaining records of previous permanent disability awards. Such records should be reviewed by claims examiners before approving additional permanent disability benefits. The ERS explains that, in cases of permanent disability, all claims "of a similar nature" are requested from Deliverex, the WCD storage facility. We believe that it is the cumbersome nature of this procedure that led claims examiners to report that, in some cases, previous permanent disability awards are not being referenced and incorporated in later benefit calculations.

The WCD relies on a claims inventory generated by its claims management system to identify "claims of a similar nature." As noted in Section 5.1 of our report, the WCD has not developed procedures to record the specific causes of work-related injuries or the existence of prior awards in its claims management system, although the system contains these capabilities. We do not deny that the WCD attempts to retrieve pertinent information from its archived files. Rather, at page 111 of our report, we recommend that the WCD should develop a central source of this information on-site, and should also review its quality control procedures, in light of the concerns expressed by claims examiners that existing procedures do not adequately protect the City against the award of duplicative permanent disability benefits.

At page nine of the ERS response, the department states that it would be "extremely costly and chaotic to cancel the existing contract [with Saint Francis Memorial Hospital for the initial treatment of injured workers] and suggest that injured employees seek their own medical treatment."

We agree that cancelling the existing contract with Saint Francis Memorial Hospital (SFMH) would represent a significant change in existing procedures for providing medical treatment, but we do not agree that this change would be "costly and chaotic." First, we have recommended that the contract be cancelled only if SFMH is unwilling to accept the contract modifications which we have

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recommended, which would ensure that SFMH services are competitive with other medical providers. Given the volume of business currently provided to SFMH by the WCD and the fact that the recommended discounts are based on existing market conditions (and are comparable to fees paid to other health care providers), we believe that SFMH should be willing to accept the contract modifications in order to remain competitive.

Second, a simple alternative to SFMH services would be to direct injured workers to physicians associated with the CompAlliance Preferred Provider Network, for which the WCD expends \$350,000 annually, and whose discounts for outpatient services are considerably more favorable than SFMH contract terms (as shown at Table 7.1, page 175 of this report). These physicians are enrolled in the CompAlliance network with the expectation of providing medical services in connection with workers compensation claims.

Cancelling the contract may require more concerted efforts on the part of claims examiners and WCD managers to identify the employee's treating physician and to communicate with physicians concerning specific reimbursement procedures and reporting requirements. However, we believe that this would be an advantage, rather than a disadvantage, of terminating the SFMH contract, since it would involve a more direct relationship between treating physicians and claims examiners who approve benefits, compared to the current relationship between SFMH and the WCD. Although the ERS states that the result would be "chaotic," the result would actually depend on the quality of management practices which were applied to effect the transition. With the recent increase in claims examiners and decrease in caseloads as a result of third party administration, claims examiners should have the ability to communicate with treating physicians and to obtain needed information regardless of whether treatment is provided by SFMH or by alternative medical providers.

The ERS also states that, if the SFMH contract were cancelled, "injuries would be reported late, no discounts would be available, and there would be no monitoring of medical treatment."

Any physician who treats an injury which appears to be work-related is required to submit a report of the injury to the employer within five days of the injury. At the present time, the WCD relies on SFMH medical reports to obtain knowledge of new claims, although similar notice is also required from the employee and from a representative of the employee's department. We believe that the WCD could and should ensure the prompt reporting of claims by enhancing procedures to collect required information concerning new claims from the employee and the department, rather than SFMH. In addition, the WCD is empowered under the Labor Code to deny payment to physicians who do not comply with reporting requirements.

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There is no basis for the ERS contention that if the contract were terminated, "no discounts would be available." As noted in Section 7.1 of our report, discounts are currently available from other medical providers which are equally favorable or more favorable than current SFMH contract terms. It was the absence of appropriate SFMH discounts that resulted in our recommendation that the WCD either modify or terminate the contract. Based on our analysis, we believe that the WCD could realize more favorable discounts from alternative medical providers.

There is no reason to expect the monitoring of medical treatment to decrease as a result of using medical providers other than SFMH. As noted above, we believe that using alternative providers should provide new opportunities for claims examiners to become more actively involved in monitoring medical treatment, compared to the WCD's current oversight of SFMH services.

Finally, on page 10 of the ERS response, the department states that separating the evaluation of initial injuries from ongoing medical treatment, as recommended in our report, "presents a range of problematic issues that require further analysis." In support, the department states that this structure could have an "adverse impact on the availability and quality of responding initial treating facilities," meaning that medical facilities would be less willing to compete for the opportunity to become the City's initial evaluation and treatment facility, if they would not be authorized to also provide ongoing treatment. This argument is speculative, and has little basis in economic reasoning.

We strongly believe that current health care market conditions indicate that a high level of interest among medical treatment providers would result from a competitive selection process. In this connection, the San Francisco Department of Public Health has expressed its desire to compete for the provision of initial medical treatment for the City's injured workers.

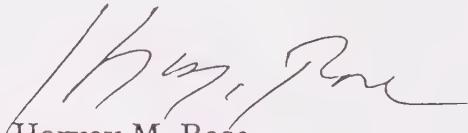
Finally, any medical facility which provides initial evaluation and treatment for most of the City's injured workers should receive a higher volume of business, as the City's primary contractor, than it would receive if it were not the initial treating facility.

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Acknowledgments

The WCD's management and staff assisted our efforts in this management audit and provided information to conduct our analyses. We wish to acknowledge the contributions of the General Manager and the Executive Assistant of the ERS, who directly facilitated this audit. Mr. Clae Powell of the Noetics Group, Ms. Carolyn Acton of Reviewco, and Mr. Gary Evans of Corporate Systems graciously cooperated with our requests for information. We especially wish to acknowledge the assistance of Maryellen Vergas, WCD Office Manager, and Robert Wood, Claims Supervisor.

Respectfully submitted,



Harvey M. Rose
Budget Analyst

cc: President Alioto
Supervisor Bierman
Supervisor Hallinan
Supervisor Hsieh
Supervisor Kaufman
Supervisor Kennedy
Supervisor Leal
Supervisor Maher
Supervisor Migden
Supervisor Shelley
Clerk of the Board
Mayor Jordan
Controller
Chief Administrative Officer
Risk Manager
Teresa Serata
Robert Oakes
Ted Lakey
Dan Maguire
General Manager, Employees Retirement System
Members, Employees Retirement Board
Director of Human Resources
Director, Health Service System

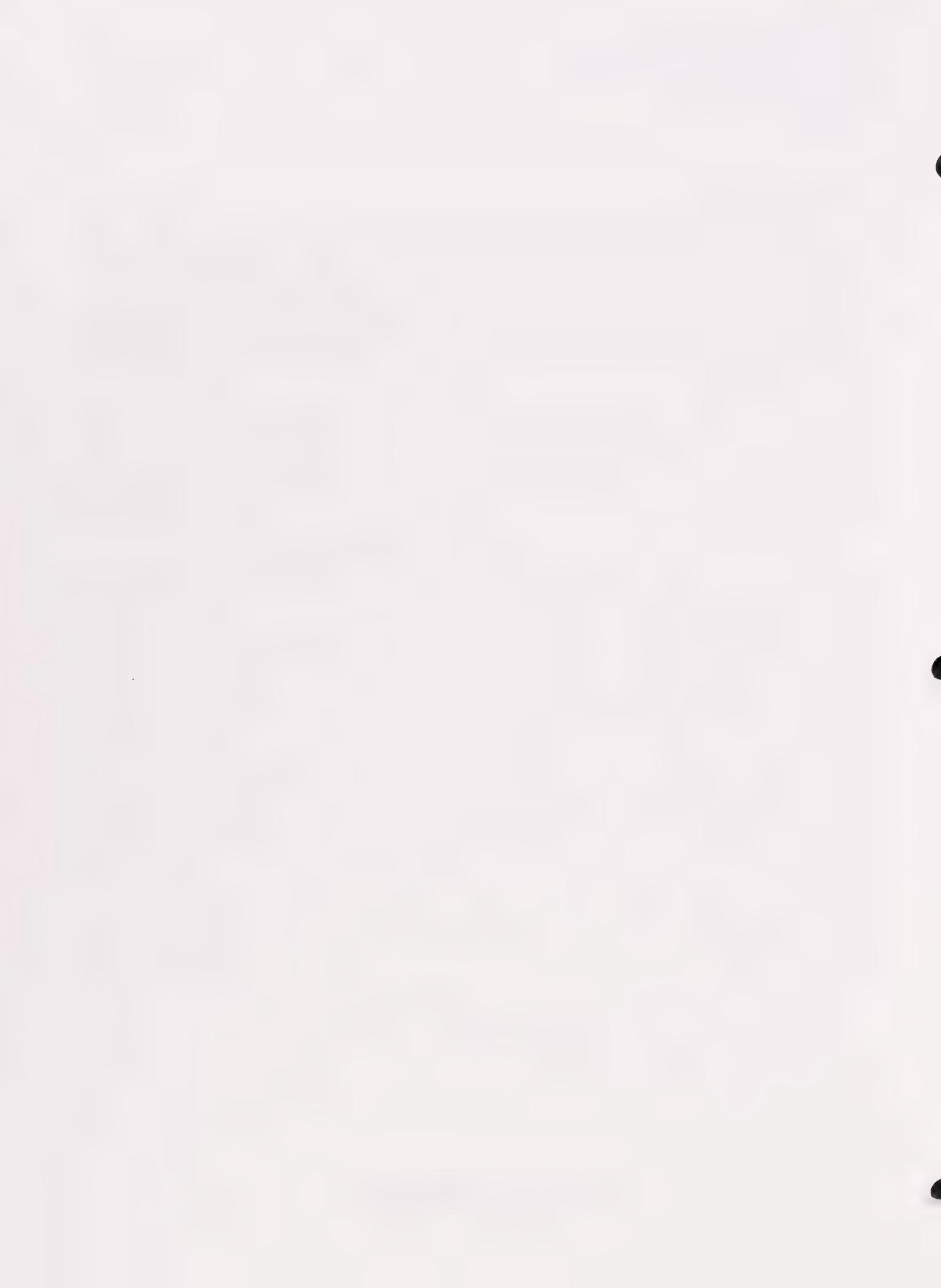


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INTRODUCTION

Pursuant to a motion adopted by the Board of Supervisors, the Budget Analyst has conducted a management audit of the Workers Compensation Division (WCD) of the Employees Retirement System. The purpose of this audit was to evaluate the efficiency and effectiveness of the operations of the WCD, which expends \$38.5 million annually in benefit payments, including medical treatment for injured City and County workers. The scope of the Budget Analyst's Management Audit included:

- An evaluation of the organization structure of the WCD;
- An analysis of WCD's claims administration practices;
- A review of WCD's personnel and management procedures and controls;
- An evaluation of WCD personal services contracts; and,
- Analysis of WCD health care delivery systems.

Audit Methodology

The Budget Analyst undertook the following principal activities in order to assess the performance of the Workers Compensation Division in administering workers compensation benefits:

- Met regularly with the General Manager of the Employees Retirement System who facilitated audit activities; interviewed the Workers Compensation Division Manager, the four Claim Supervisors, and a number of claims examiners to gather information and to assess claim administration practices at the WCD; met regularly with the Supervisor of the Bill Paying Unit at the WCD to evaluate procedures for the payment and control of claim expenditures; interviewed the Civil Service Commission's Senior Personnel Analyst currently assigned to the Employees Retirement System, and reviewed personnel records related to examinations, hiring, and promotion of WCD staff.
- Interviewed the Claims Manager for the Noetics Group, a third party claims administrator retained by the City in May, 1993; interviewed the City's customer representative from Reviewco (a medical bill review company); and, interviewed the WCD's vocational rehabilitation representative and the medical coordinator, who provide services to the WCD as independent contractors.
- Reviewed the terms of the City's contract with the Saint Francis Memorial Hospital (SFMH) for medical treatment to injured employees, including a comparison of contractual fees with rates allowed under the State of California's Official Medical Fee Schedule and the CompAlliance preferred

provider organization which is administered through the City's contract with Reviewco.

- Met with a representative of Corporate Systems, which provides the City's leased claims management information system, to facilitate access to the WCD claims management information system database in order to obtain statistical and financial information related to the City's workers compensation claims. The Supervisor of the Bill Paying Unit at the WCD was also instrumental in providing data from the claims information system.
- Met with the Risk Manager and representatives of the City Attorney's office to gain further perspectives on the administration and control of workers compensation benefits.
- Compiled statistics which are reported annually to the State Department of Industrial Relations (DIR) on the number and cost of each jurisdiction's workers compensation claims.
- Reviewed published guides to workers compensation law and procedure to gain a working understanding of current workers compensation laws, regulations, reporting requirements, and applicable benefits.
- Surveyed supervisors, claims examiners, and clerical staff within the WCD concerning a range of management performance indicators, and solicited employee suggestions for improvement.
- Administered a detailed supplemental questionnaire to claims examiners concerning the effect of high caseloads, specific claims administration procedures, and potential cost saving measures.
- Analyzed a random sample of 100 new claims which were opened during fiscal year 1992-93, as well as a separate random sample of claims which were active during the month of November, 1992.
- Analyzed samples of the medical bills submitted by SFMH for services on behalf of claimants included in the samples of claims described above.
- Analyzed and evaluated the WCD's written procedures and controls for the processing of claim expenditures through two separate warrant issuance systems, and analyzed the quality of the interface between the warrant issuance systems and the computerized claims management database.
- Reviewed the findings of an audit conducted in December, 1992 and March, 1993 by the DIR Office of Benefit Assistance and Enforcement, relating to the performance of the WCD in administering workers compensation benefits on behalf of City workers.

- Reviewed the findings of a performance audit issued by the independent consulting firm of Warren, McVeigh, and Griffin in June, 1990.

Field work was conducted over a six month period, from July 1993 to December 1993. Upon completion of the draft report, an exit conference was held with the ERS General Manager regarding report content. The ERS was invited to submit a formal written response, which has been appended to this report.

Overview of the Workers Compensation Division

Charter Section 8.515 delegates authority to the Retirement Board for the administration of the benefit provisions of the workers compensation laws of the California Labor Code. The Retirement Board's responsibilities are further defined in Section 6.81 of the San Francisco Administrative Code, which states that the administration of workers compensation benefits by the Retirement Board, "shall include determination of the right to benefits, payment of disability indemnity, furnishing medical service, adjusting and compromising claims and all other acts necessary to the liquidation of the liability of the City and County of San Francisco... [and] such legal services as may be required in the administration shall be furnished by the City Attorney."

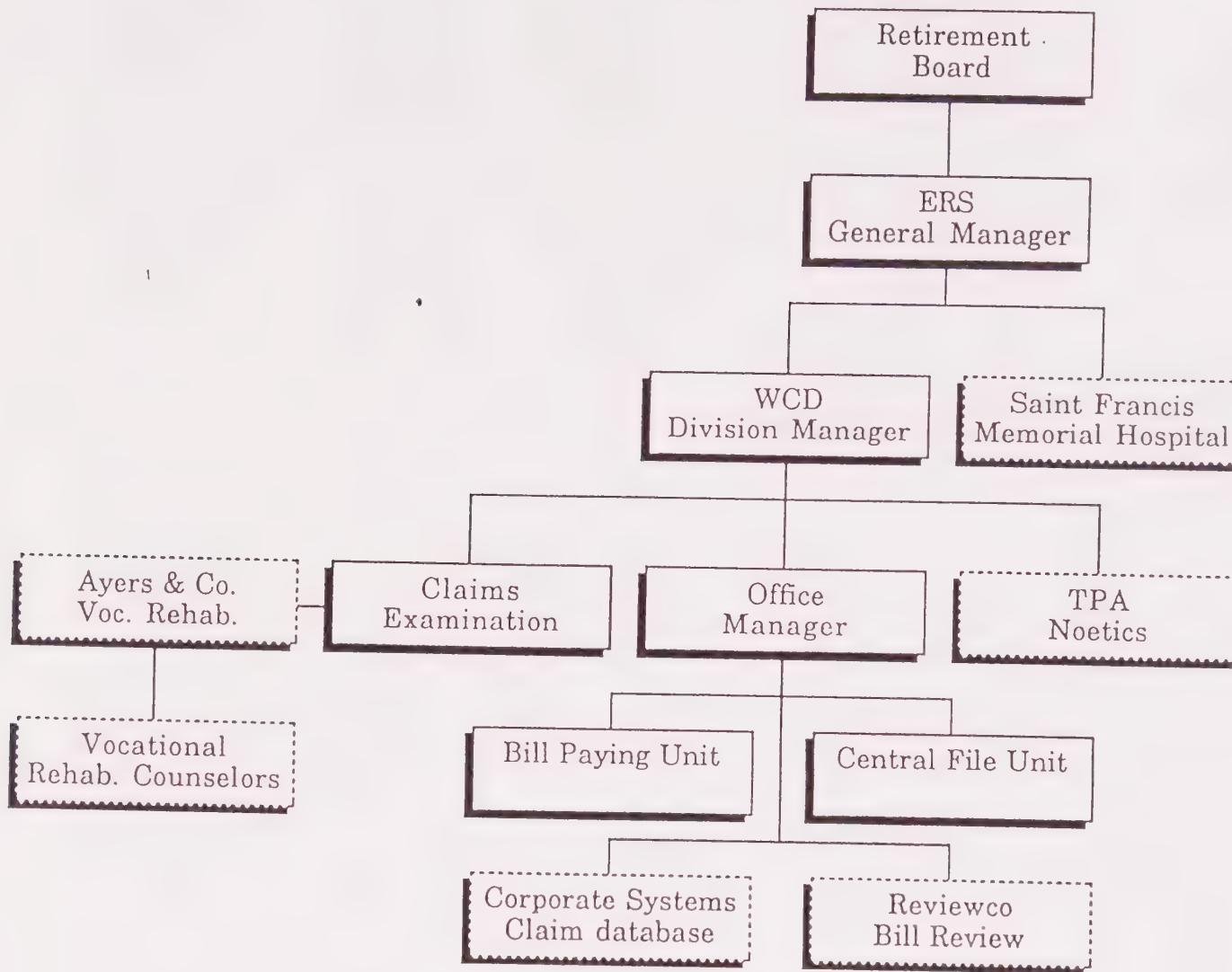
Organization

The Workers Compensation Division is a division of the Employees Retirement System. The ERS is administered by the General Manager, who is appointed by the Retirement Board subject to Civil Service requirements. The WCD is managed by a Division Manager. The Division Manager has responsibility for managing WCD operations. A WCD organization chart is shown in Figure 1 on the following page.

The Workers Compensation Division of the Employees Retirement System has an authorized budget of \$5.9 million in 1993-94, which includes the cost of a \$2.8 million personal services contract with the Noetics Group for third party administration of approximately 50 percent of the City's 1993-94 workers compensation claims. The budgeted cost of the WCD's operations, net of the Noetics contract, is therefore \$3.1 million.

Table 1.4 on page 40 (Section 1.2) reflects the actual current staffing level at the WCD of 39 positions, and compares the projected total operating costs of the WCD for 1993-94 to the 1993-94 contract cost and staffing levels of the Noetics Group which now shares responsibility for administration of the City's workers compensation claims. This table provides an opportunity to directly compare the staffing levels and operating costs of the WCD and the Noetics Group for 1993-94.

Organization Chart of the Workers Compensation Division of the Employees' Retirement System



The operations of the Workers Compensation Division consists of the following major areas of responsibility:

Claims Examination: Adjusters review and monitor the City's workers compensation claims, and facilitate claims administration activities, by: (1) calculating benefit payments; (2) monitoring the work status of disabled employees by contacting physicians and City departments; and (3) preparing worksheets used by the Bill Paying Unit to input benefit payment information into the WCD's warrant issuance system.

Claims processors also enter payroll information into the Division's computerized claims management system, for record keeping purposes.

Bill Paying Unit: Under the management of the Office Manager, clerical staff are responsible for receiving and processing invoices from physicians, clinics, hospitals, pharmacies, and a range of other providers of medical services for injured employees, as well as the statements submitted by attorneys, investigators, and other agencies who provide services related to workers compensation claims. These bills are forwarded to a medical bill review company (Reviewco) for fee comparisons, applications of appropriate discounts, and bill processing.

Data entry operators in the Bill Paying Unit are also responsible for entering payment information which is authorized by claims examiners and processors into the Controller's payment system. The Bill Paying Unit also oversees and maintains vendor files.

Central File: Under the management of the Office Manager, clerical staff are responsible for creating new files and establishing new claim records in the Corporate Systems claims management database, locating files which require action, filing documents and correspondence, assigning claim numbers to invoices, and managing the storage and retrieval of records.

Legal Services: Under Section 16.81 of the Administrative Code, Workers Compensation Legal Services are provided by the City Attorney. These services include representing the City in litigated claims before the Workers Compensation Appeals Board, and instituting cost recoveries from third parties.

The Workers Compensation Division expended approximately \$38.5 million in 1992-93 for workers compensation benefits provided to employees of the City and County of San Francisco who sustained injuries or illnesses in the course of their employment. According to the Employee Retirement System's preliminary 1992-93 year-end review, total costs in 1992-93 for the major categories of workers compensation benefits were as follows:

Table 1.1
Workers Compensation Benefit Costs
1992-93

<u>Category</u>	<u>Amount</u>
General Fund and General Fund Supported Departments	
<u>Indemnity Payments</u>	
Temporary Disability	\$7,220,951
Permanent Disability	1,398,395
Full Salary in lieu of disability	<u>8,025,626</u>
Indemnity Subtotal	\$16,644,972
Medical Expenses	\$13,542,183
Legal Costs (claimants attorneys)	413,396
Rehabilitation services	<u>634,806</u>
Expense Subtotal	14,590,385
Subrogation	<u>(566,121)</u>
General Fund Departments Subtotal^a	\$31,173,712
Special Fund Departments	
<u>Indemnity Payments</u>	
Temporary Disability	\$2,728,776
Permanent Disability	554,278
Full Salary in lieu of disability	<u>0</u>
Indemnity Subtotal	\$3,283,054
Medical Expenses	\$4,307,931
Legal Costs (claimants attorneys)	154,196
Rehabilitation services	<u>268,682</u>
Expense Subtotal	4,730,809
Subrogation	<u>(220,313)</u>
Special Fund Departments Subtotal^b	<u>7,289,074</u>
Total Expenditures	<u>\$38,462,786</u>

^a Includes Municipal Railway, San Francisco General Hospital, and Laguna Honda Hospital, which are supported by the General Fund.

^b The Special Fund subtotal total includes \$3,820,493 in benefits paid on behalf of employees of the San Francisco Unified School District and the Community College District.

The 1993-94 budget includes \$24,270,197 for workers compensation benefit payments in the current fiscal year. This budgeted amount includes \$19,249,162 for General Fund and General Fund supported departments, and \$5,021,035 for Special Fund departments. As of the writing of this report, the Controller estimates that workers compensation benefit costs are under-budgeted by approximately \$4 million in the current fiscal year.

Previous Audits of the WCD

Warren, McVeigh, and Griffin

Of particular interest in light of the Budget Analyst's own audit findings as described in this report, are the previous audit findings of the independent consulting firm of Warren, McVeigh, and Griffin (WMG). The purpose of Warren, McVeigh, and Griffin's last performance audit of the WCD in 1990 was to evaluate "the systems, procedures, and performance of the Workers Compensation Division." The 1990 report followed two previous performance audits which were conducted by WMG in 1982 and 1984.

In 1990, the primary conclusion of the WMG auditors was that, "the technical staff is very professional, but grossly overloaded," and that, "the necessary improvements are not possible without an adequate permanent staff." According to the 1990 report, "budget considerations" had been described to the auditors as the reason for continuing high caseloads within the Workers Compensation Division.

The WMG auditors further noted that, in their first review in 1982, they had found that, "virtually none of the personnel, procedures, controls, or data necessary for an efficient claim unit were in place." By the time of a second study in 1984, the WMG auditors could note that "a claim information system was in place."

Warren, McVeigh and Griffin's 1990 report does not cite any improvements since 1982 other than the addition of the claim information system, added between 1982 and 1984, and the addition of 5 adjusters pursuant to recommendations made in its 1984 report.

San Francisco Controller's Audit

The Audits Division of the City Controller's Office conducted an audit of the Workers Compensation Division in 1991. The stated purpose of this audit was to determine why workers compensation costs were increasing rapidly, and to develop cost containment strategies. This audit found that, over the previous decade, the number of claims per employee had remained fairly stable, but the average claim costs had increased by 166 percent. The Controller's audit attributed rising cost to the lack of effective claims administration, an "incoherent" organization structure for the City's workers compensation

program, and the absence of adequate return to work programs. The Controller's audit recommended, among other things, an actuarial study to estimate the City's total liability for workers compensation claims, the re-bidding of the WCD contract with Saint Francis Memorial Hospital, more careful attention City-wide to effective return to work programs, and an exception to the Controller's policy of issuing City checks for payments to vendors, subject to adequate internal accounting controls.

State Office of Benefit Assistance and Enforcement (OBAE)

In November, 1992, the State Office of Benefit Assistance and Enforcement (OBAE), began an audit of the WCD to assess its compliance with State requirements. OBAE is a State agency organized to protect the interests of injured workers. In accordance with State legislative mandates, the focus of the OBAE audit was the enforcement of the right of injured employees to receive compensation in a timely fashion. OBAE did not evaluate the overall efficiency and effectiveness of management practices within the Workers Compensation Division.

The preliminary findings issued by OBAE on August 19, 1993, reflect that the agency proposed to impose a total of \$38,350 in administrative penalties for the WCD's alleged failure to provide benefits and comply with required notification requirements in a timely fashion as follows:

Table 1.2
Penalties Assessed by the Department of Industrial Relations
Office of Benefit Assistance and Enforcement

Unsupported Denial of Claims	\$22,125
Claim Log Violations	7,875
All Other Penalties*	<u>8,350</u>
Total	\$38,350

*Primarily penalties for (1) failure to notify claimant, (2) late notification, and/or (3) untimely payment of benefits.

According to the Division Manager, he and two Claims Supervisors reviewed the proposed penalty assessment of \$38,350 to determine if it was reasonable. They determined that the \$38,350 was indeed a reasonable amount that could not be further mitigated by the WCD.

The number of unsupported denials in the WCD was unusually high, according to the OBAE, and the penalty for such unsupported denials is correspondingly high. One unsupported denial is considered by OBAE to be a serious offense; OBAE found 13 such unsupported denials at the WCD. Except for

this high number of unsupported denials, OBAE reports that the WCD was found to perform satisfactorily in providing required benefits to injured workers.

One staff member was reportedly responsible for a significant portion of the unsupported denial of claims. This employee was removed from his or her position when OBAE brought this to WCD management's attention.

Survey of Other Jurisdictions and of WCD Employees

For comparative purposes, we submitted a survey to workers compensation programs in California's 16 largest cities and counties, based on population. Responses were received from 15 of the jurisdictions. This survey included organization, staffing, costs, and project management issues. In addition, we distributed surveys to 38 WCD employees, of which 21 responded. This survey included questions of broad organizational and procedural issues, as well as detailed questions regarding specific WCD claims practices. As appropriate, information obtained from survey responses is referenced throughout the report. A copy of the survey of other jurisdictions appears in Appendix 1. Our survey of WCD staff appears in Appendix 2.

Our survey of other California jurisdictions indicated a number of areas where San Francisco's performance does not compare favorably to California averages. These issues should be examined by the WCD as part of the strategic plan which we have recommended in Section 1. As noted below, the following comparisons do not necessarily take into account differences between San Francisco's workforce compared to the workforce of other jurisdictions. Such differences may help to explain the WCD's apparent poor performance. Therefore, the following comparisons should be viewed only as indicators, and not as firm evidence of any specific deficiencies in the WCD.

Our survey indicates that San Francisco experiences a larger number of new claims in any fiscal year than do other jurisdictions, and also pays significantly more in compensation for its claims than do other jurisdictions. The combination of a higher number of claims at a higher average cost resulted in expenditures for new claims during 1991-92 which were approximately \$9.9 million more than they would have been if San Francisco had conformed to the State-wide average. In addition, San Francisco's claims remain active for a shorter period of time than do those of other jurisdictions, which indicates either that, (1) San Francisco performs significantly better than other jurisdictions in limiting the duration of claims of a similar nature, or (2) San Francisco is compensating less serious injuries than elsewhere in California. Specifically:

- Based on the experience of 16 California cities and counties (15 jurisdictions responding to our survey, plus San Francisco), San Francisco in 1991-92 accounted for 9.9 percent of total city and county employment, 12.9 percent of total new "medical only" claims (which did not result in disability), and 16.3 percent of total new indemnity claims (in which an employee was temporarily disabled). In terms of costs, San Francisco's 1991-92 costs comprised 14.2 percent of all medical expenses and 26.6 percent of all

temporary disability indemnity payments which were made to injured workers in 1991-92 for 1991-92 claims. As shown by this comparison, San Francisco's claim experience and costs are significantly higher than those of other jurisdictions.

- San Francisco expended an average of \$2,370 in direct compensation to the employee for each disability claim filed in 1991-92, representing the highest average compensation rate in the State. This rate was 86.6 percent higher than the average of \$1,270 in compensation per new claim which was paid by other jurisdictions in 1991-92.
- San Francisco employees filed 28 workers compensation claims for every 100 workers in 1991-92, compared to the State-wide average of 18 claims per 100 workers filed in other jurisdictions.
- If the number of new claims filed in San Francisco had conformed to the State-wide average in 1991-92, the number of new San Francisco claims would have been 35.3 percent lower for medical-only claims, and 50.6 percent lower for indemnity (or "lost time") claims, compared to actual 1991-92 levels.
- If San Francisco's experience had conformed to the State-wide average for new claims filed in 1991-92, San Francisco's 1991-92 costs for workers compensation claims filed in 1991-92 would have been \$6,197,766, rather than \$16,064,684, a reduction of \$9,866,918, or 61.4 percent. The City's actual costs of \$16 million are 159 percent higher than the expected cost, based on State-wide averages, of \$6.2 million. These savings would have consisted of \$2.62 million less to provide medical treatment, and \$7.24 million less for compensation paid to disabled workers.
- San Francisco's claims are shorter in duration than those of other jurisdictions, and open claims in San Francisco are comprised of a larger percentage of newly opened claims. The number of new claims filed in 1991-92 among other jurisdictions represented only 27 percent of the number of all claims still open on June 30, 1992. In contrast, the number of new claims filed in San Francisco in 1991-92 was 57 percent of all claims still open on June 30, 1992.
- Consistent with the finding that San Francisco claims are of below average duration, San Francisco pays significantly more of the total cost of a claim in the first year of the claim than other jurisdictions. Of the total three year cost (through June 30, 1992) of indemnity claims filed in 1989-90, other jurisdictions paid only 29.3 percent of total claim expenditures during the first year (1989-90). In contrast, San Francisco expended 50.8 percent of the total cost of 1989-90 claims within the first year, indicating that claim activity declined significantly in San Francisco after the first year.

Although these statistics indicate that San Francisco experiences a higher number of claims, a higher average cost per claim, and a higher percentage of short-term claims than the State-wide average, the reasons for these differences are not precisely known, and should not necessarily be attributed to the WCD's claims administration practices, compared to claims administration practices in other jurisdictions.

For instance, one important difference between San Francisco and other jurisdictions is the inclusion of Municipal Railway claims in the data reported to the State from San Francisco, whereas many of the other cities and counties which were surveyed are not responsible for workers compensation benefits for the employees of transit districts. Since transit operations present more risk of industrial injuries and accidents than other City and County functions, and since MUNI accounted for approximately 23.4 percent of all workers compensation claims filed in 1992-93, MUNI operations could account for a significant portion of the variance between San Francisco's actual and expected performance, based on State-wide averages.

Another important difference may be that San Francisco police officers and certain other public safety employees receive full salary and benefits when on temporary disability, pursuant to provisions of the San Francisco Charter. Under the State Labor Code, full pay in lieu of temporary disability compensation is mandated for public safety officers who are members of the State Public Employees Retirement System. Although San Francisco police officers are not members of PERS, and therefore are not entitled to full pay in lieu of temporary disability under State law, San Francisco police officers are entitled to these benefits under the San Francisco Charter. If other jurisdictions do not provide full salary benefits to safety officers who are not entitled to such benefits under the Labor Code, San Francisco will experience a higher cost per claim as the result of providing these full pay benefits where other jurisdictions do not. This may account, at least in part, for the large difference in average indemnity costs paid per claim, which, as noted above, is 86.6 percent higher in San Francisco than the State-wide average.

In addition, if recipients of full salary benefits in San Francisco (primarily police and firefighters) experience a longer period of disability on average than do full salary recipients in other jurisdictions, such extended leaves, at full pay, would increase San Francisco's cost per claim relative to those of other jurisdictions.

Finally, we have not evaluated the interaction of accident prevention programs in each of these jurisdictions with their reported claim costs. Effective accident prevention programs, and other employee health and safety initiatives, can be expected to reduce the cost of workers compensation claims.

Comments and Observations

All of the findings in this report lead to the general conclusion that the City lacks an effective management structure for the administration of benefits and the control of workers compensation costs. Our audit findings reveal that the WCD lacks many of the procedures, controls, and data necessary for an efficient claims administration unit. The WCD further lacks the policy guidance necessary for an effective workers compensation program.

In summary, the Budget Analyst has identified a wide range of deficiencies in the management and administration of the Workers Compensation Division, including:

- A lack of comprehensive policies and procedures for examining claims;
- A need for significantly more training of claims examiners who administer benefits;
- Inadequate information resources for adjusters to examine claims;
- Failure to competitively bid contractual services valued at more than \$6.3 million;
- Lack of oversight of the activities and fees of independent contractors;
- Contractual rates for the services of Saint Francis Memorial Hospital (the City's primary medical care provider) which are higher in some cases than those required under State administrative regulations;
- Inattention to the use of preferred provider discounts to minimize the City's costs for medical services;
- Failure to comply with Administrative Code requirements for reporting comparative medical costs to the Board of Supervisors;
- Inadequate design and utilization of management information systems;
- Inattention to the need for program data concerning the City's workers compensation program.

The Workers Compensation Division has generally relinquished control of its expenditure authority to independent contractors. The Division has failed to implement a claims management system to provide adequate information to claims examiners and has failed to provide adequate training and oversight in workers compensation law and procedure. Further, the WCD lacks adequate accounting and expenditure controls. Finally, the WCD has been unwilling or unable to develop and disseminate basic statistical and financial information to assist the City in controlling workers compensation costs.

The Budget Analyst has relied on a variety of information resources to develop the following report. It is not possible, however, for the research conducted during this management audit to compensate for the inadequate records management, statistical analysis, and policy development which apparently have characterized the Workers Compensation Division since Warren, McVeigh, and Griffin first noted the absence of the "personnel, procedures, controls, or data necessary for an efficient claim unit" in 1982.

Acknowledgments

The WCD's management and staff assisted our efforts in this management audit and provided information to conduct our analyses. We wish to acknowledge the contributions of the General Manager and the Executive Assistant of the ERS, who directly facilitated this audit. Mr. Clae Powell of the Noetics Group and Ms. Carolyn Acton of Reviewco graciously cooperated with our requests for information. We especially wish to acknowledge the assistance of Maryellen Vergas, WCD Office Manager, and Robert Wood, Claims Supervisor.

SECTION 1: ORGANIZATIONAL ISSUES

Introduction to Section 1

In this section of our report, we address organizational issues relating to the Workers Compensation Division.

In Section 1.1, we address the effectiveness of the current organization of the Employees Retirement System as it affects the management and oversight of the City's workers compensation program, and propose an alternative organizational structure for the management of employee benefit programs, including the Workers Compensation Division, within the Department of Human Resources.

As discussed in Section 1.1, the Department of Human Resources has been established pursuant to a Charter Amendment (Proposition L) adopted by San Francisco voters on November 3, 1993. Under the Charter Amendment, the Board of Supervisors may transfer the Workers Compensation Division to the Department of Human Resources no sooner than July 1, 1994, upon adoption of an implementing ordinance.

In Section 1.2, we address organizational issues concerning the procurement of claims administration services, and whether these services should be performed under contract with a third party claims administrator, or in-house by the WCD.

This section of our report includes the following subsections:

Section 1.1: Organizational Alternatives

Section 1.2: Procurement of Claims Administration Services.

SECTION 1.1: ORGANIZATIONAL ALTERNATIVES

- NUMEROUS INDICATORS IDENTIFIED WITHIN THIS REPORT SUGGEST EXTENSIVE MANAGEMENT DEFICIENCIES WITHIN THE WCD. THE ORGANIZATIONAL PLACEMENT OF THE WCD WITHIN THE EMPLOYEES RETIREMENT SYSTEM CONTRIBUTES TO THESE DEFICIENCIES BECAUSE:
 - (A) THE RETIREMENT BOARD IS NOT FULLY ACCOUNTABLE TO THE MAYOR OR THE BOARD OF SUPERVISORS;
 - (B) THE CHARTER RESTRICTS THE APPOINTMENT OF RETIREMENT BOARD MEMBERS WITH SPECIFIC EXPERTISE IN WORKERS COMPENSATION LAW AND PROCEDURE; AND,
 - (C) THE RETIREMENT BOARD'S PRIMARY DUTY TO MANAGE THE RETIREMENT TRUST FUND IS FUNCTIONALLY UNRELATED TO MANAGING A WORKERS COMPENSATION PROGRAM.
- THE WCD SHOULD BE TRANSFERRED TO THE NEW HUMAN RESOURCES DEPARTMENT UNDER A BENEFITS ADMINISTRATOR.
- ADVANTAGES OF THIS ORGANIZATIONAL STRUCTURE INCLUDE: (1) INCREASED ACCOUNTABILITY BY THE WCD; (2) A N INCREASED OPPORTUNITY FOR THE CITY TO DEVELOP EXPERTISE AND POLICY GUIDANCE IN WORKERS COMPENSATION, AND (3) IMPROVED COORDINATION OF EMPLOYEE BENEFIT PROGRAMS. SUCH CHANGES TO THE ORGANIZATION WOULD RESULT IN UNSPECIFIED SAVINGS IN WORKERS COMPENSATION COSTS, WHICH CANNOT BE PRECISELY ESTIMATED.

An effective workers compensation program promotes safety at the workplace, provides for quality medical care for injured workers, and controls the costs of workers compensation benefits. The essential elements of an effective workers compensation program are:

- An effective claims administration unit, with responsibility for determining the eligibility of injured workers for specific workers compensation benefits, and administering benefits in compliance with State law while minimizing total costs to the City.

- A cost effective system for the delivery of medical services to injured workers.
- City-wide policy initiatives for programs that reduce risk, increase worker safety, and discourage abuse.
- A management information system which is carefully designed and implemented to facilitate program management and cost containment objectives.

This section analyzes the organization of workers compensation functions in San Francisco and identifies an organization structure which will enhance the cost-effectiveness of current services.

This section includes the following subsections:

- (1) A description of the Workers Compensation Division's (WCD) present organization;
- (2) A discussion of the effectiveness of the present organization; and,
- (3) Presentation of an alternative organization structure that would be more cost effective.

Description of WCD Present Organization

The Workers Compensation Division is presently a division of the Employee Retirement System (ERS). The ERS is governed by the Employees Retirement Board, which consists of seven members, appointed as follows:

- One member of the Board of Supervisors;
- Three members appointed by the Mayor. The members appointed by the Mayor must either hold a degree of doctor of medicine, or must be experienced in life insurance, actuarial science, employee pension planning, or investment portfolio management; and,
- Three members elected from the membership of the Employees Retirement System.¹

The Employees Retirement Board is an independent body with responsibility for administering benefits of the Retirement System. The Retirement Board has exclusive control of approving retirement benefits and managing investments in the Retirement Trust Fund which was valued at \$5.9 billion on June 30, 1993.² The Employees Retirement Board is separate and independent from the Mayor and Board of Supervisors.

¹ San Francisco Charter §3.670

² San Francisco Charter §3.671

The General Manager of the ERS is also in charge of the Workers Compensation Division. The General Manager manages the WCD Division Manager, who is responsible for WCD operations. The Division Manager is a Civil Service position which requires specific knowledge and experience in workers compensation.

Functions related to workers compensation in San Francisco currently are decentralized. These functions are distributed as follows:

- Fifty percent of claims administration services are performed by the Workers Compensation Division of the Employees Retirement System. WCD claims administration is overseen by the WCD Division Manager.
- Fifty percent of claims administration services are performed on a contractual basis by the Noetics Group, a third party claims administrator (TPA). A WCD claims supervisor has specific responsibility for overseeing the contractor. This claims supervisor is accountable to the WCD Division Manager.
- Advisory functions are performed by the Workers Compensation Task Force.

For an organization chart of the division and the contractors, see Figure 1 (page 4 of the Introduction to this report).

Discussion of the Effectiveness of the Current Organization

Legal and Organizational Aspects

The current organization structure established by the City to implement workers compensation policy and benefits is not effective. To explain this lack of effectiveness, this subsection evaluates the current organization.

Workers compensation costs represent a major expenditure which is financed from the City's General Fund. In FY 1992-93, the City spent approximately \$38.5 million in benefits and an additional \$3.0 million in administrative costs of the program. The Board of Supervisors and the Mayor have an obligation to balance and consider the General Fund when making policy decisions. While City boards and commissions do not have this same obligation, boards and commissions typically serve at the pleasure of the Mayor and/or the Board of Supervisors. Thus, the Board of Supervisors or the Mayor can relieve board members and commissioners of their positions, if these board members or commissioners do not appropriately fulfill their obligations.

The only tool for holding members (of any City board or commission) accountable for General Fund expenditures is the ability of the Mayor or the Board of Supervisors to appoint and relieve board and commission members of their

positions. Three members of the seven-member Retirement Board (43 percent) are elected independently from the Retirement System membership. These Board members do not serve at the pleasure of the Board of Supervisors or the Mayor, and neither the Board of Supervisors nor the Mayor can relieve these individuals of their positions on the Retirement Board. In addition, the three members of the Retirement Board appointed by the Mayor must either be doctors of medicine, or experienced in life insurance, actuarial science, employee pension planning, or investment portfolio management. These professional disciplines clearly emphasize expertise in pension administration and investment management, without providing any specific requirement for the appointment of Retirement Board members having expertise in workers compensation law and procedure. In other words, the Charter restricts the Mayor to selecting his appointees primarily from applicants with experience in pension administration and investment management, not in workers compensation.³

The Charter emphasizes the Retirement Board's responsibility for pension administration by (1) granting the Retirement Board exclusive control of the \$5.9 billion Retirement Trust Fund, (2) requiring the Retirement Board to conduct actuarial studies to determine the amount of the City's retirement contributions, and (3) delegating authority to the Retirement Board to administer retirement benefits, "under such general ordinances as may be adopted by the Supervisors." As a result, the ERS General Manager is responsible for maximizing the investment yields in the Employees Retirement Trust Fund, administering retirement benefits, and managing the City's workers compensation program.

In summary, placement of the City's workers compensation program under an independent Retirement Board with emphasis on investment and pension administration responsibilities is not in the best interests of the City, because:

- (1) Three members of the Retirement Board (43 percent) are elected from the Retirement System membership, and are not fully accountable to the Mayor or the Board of Supervisors for decisions which may adversely affect the General Fund;
- (2) The three members of the Retirement Board appointed by the Mayor must either hold a medical degree or have experience in life insurance, actuarial science, employee pension planning, or investment portfolio management. The Charter therefore limits the Mayor's ability to appoint Retirement Board members having broad experience in workers compensation law and procedure;
- (3) The Board of Supervisors appoints one of its members to serve on the Retirement Board for a one-year term. However, the City should not

³ A medical doctor might have particular knowledge that could contribute to workers compensation administration, and the Retirement Board currently includes a physician with experience in workers compensation medical issues. However, more effective oversight could be performed by a professional risk manager who is experienced in many separate aspects of workers compensation law and procedure.

rely on its elected officials, who have a wide range of public responsibilities, to possess the necessary technical expertise in workers compensation; and,

- (4) The ERS General Manager is responsible to maximize investment yields in the \$5.9 billion Retirement Trust Fund, manage the administration of retirement benefits, and oversee the City's workers compensation program. These responsibilities are too diverse to expect a high level of expertise from a single executive position.

Management of the WCD

We found numerous indicators throughout this audit that administration of workers compensation benefits is not a priority for ERS management. No members of upper management have substantial workers compensation experience. Instead, ERS management consists of individuals with actuarial and investment experience. In addition, our audit findings indicate extensive problems in many aspects of WCD management, including:

- *Information Management*
Workers compensation-related information is maintained on four separate computer systems which limits the City's ability to generate workers compensation program data. Although these systems are linked in some ways, the quality of data transfers and financial reconciliations among the four systems is quite poor. Claims examiners do not have ready access to the information which is necessary to make appropriate decisions regarding claims.
- *Contract Selection and Monitoring*
ERS management has not bid its contracts competitively, such as the Saint Francis Memorial Hospital contract for medical services, the Corporate Systems contract for the WCD management information system, the services of vocational rehabilitation counselors, or the services of the Medical Coordinator who provides medical case management. In addition, the billing and activities of contractors are not regularly monitored.
- *Policies and Procedures*
The WCD has not established policies and procedures for claims administration which involves highly technical legal, factual, and medical issues. In addition, no strategic plan has been developed to provide broad policy guidance on City-wide initiatives for the control of workers compensation costs.

- *Monitoring Levels of Health Care Service*

The amount of physical therapy received by San Francisco workers is 7 times higher than the California average, indicating that the level of medical service generally provided to the City's injured workers may be higher than necessary. However, WCD managers have not established regular utilization review programs and procedures to monitor the delivery of medical care.

- *Personnel Management*

Employees are not trained, evaluated, or provided with necessary reference materials. We have identified a number of hiring and promotional practices which appear arbitrary.

These management deficiencies could be an indicator of disinterest in workers compensation and inattention by upper managers within ERS, or may result from the organizational placement of the WCD under the ERS, which has primary responsibility for managing the Retirement Trust Fund and administering retirement benefits.

WCD managers have not played an active role in advising City officials concerning the requirements of workers compensation law, strategies for controlling costs, or the effects of new State legislation. Because of the need for overall policy leadership and more effective workers compensation program planning, the City created a Workers Compensation Task Force to make recommendations on workers compensation management issues. However, the type of strategic planning that has been delegated to the Task Force should be the responsibility of WCD management, because:

- (1) The Task Force lacks authority to implement administrative reforms in the City's workers compensation program;
- (2) Management of the City's workers compensation program should not be conducted by a committee of persons who are not accountable for WCD operational decisions;
- (3) Task Force members will not necessarily have sufficient expertise in workers compensation to make the best decisions; and,
- (4) Strategic planning for the City's workers compensation program should be based on specific and detailed analysis of actual program operations and costs. -

However, as an interdepartmental body, the Task Force should continue to serve in an advisory capacity concerning general workers compensation policy issues, including employee health and safety programs and accident prevention initiatives, and should work closely with WCD managers concerning these policy issues.

To correct these structural deficiencies, the WCD should be removed from the ERS and placed in an organization that:

- Can be held accountable for General Fund expenditures;
- Is specifically charged with managing workers compensation benefits;
- Can ensure that program executives have necessary expertise in workers compensation law and policy;
- Can integrate workers compensation benefits with other programs and services for managing human resources; and,
- Can assist the Risk Manager and other health and safety professionals to develop effective accident prevention programs.

Consolidating Functions in the Department of Human Resources

Until 1993, San Francisco Charter Section 8.515 required that workers compensation benefits be administered exclusively by the Retirement Board. However, in November, 1993 San Francisco voters approved a Charter amendment ("Proposition L") that allows the Board of Supervisors to transfer the workers compensation program to the new Department of Human Resources no sooner than July 1, 1994, upon approval of an implementing ordinance by the Board of Supervisors. Under the Charter amendment, the Department of Human Resources will consolidate functions currently performed by the Mayor's Office of Employee Relations, the Civil Service Commission, and the Health Service System.

Workers Compensation

The City's workers compensation program would be managed more effectively if it were transferred to the Department of Human Resources. Administering the City's workers compensation program through the Department of Human Resources would provide opportunities to integrate the workers compensation program with other employee health and benefit programs within the Department of Human Resources. Specifically:

- Under the Charter Amendment, the Human Resources Department has responsibility for coordinating all local, State, and Federal mandates concerning employees. Workers compensation should be included among these programs.
- The approval of this Charter amendment reflects the desire of San Francisco citizens for more effective integration of the City's personnel functions. Integration of the workers compensation program with the Department of Human Resources would be consistent with the intentions expressed by San Francisco citizens to integrate the City's personnel functions in a single agency.

- Training in workers compensation could be provided to department managers in conjunction with other management training programs administered by the Department of Human Resources.
- Labor relations functions will be placed under the Human Resources Department. Workers compensation managers could assist other labor relations professionals with negotiating labor agreements which could reduce the City's liability for workers compensation claims.
- Many civil service functions will be placed under the Human Resources Department. Placing workers compensation and Civil Service under the same Department would facilitate communication concerning recruitment and selection criteria which incorporate the risk of work-related injuries, illnesses, or accidents.
- Health care services which are provided by the Workers Compensation Division for work-related injuries could be integrated with employee health care benefits and services which are provided independently by the Health Service System for non-industrial medical conditions.

More important, the Human Resources Department will not be governed by an independent Board of Trustees. The Director of the Human Resources Department will be appointed by the Mayor from a list of applicants provided by the Civil Service Commission, and will be directly accountable to the Mayor. Therefore, effective administration of workers compensation benefits could be established as a required responsibility of the Human Resources Director. If the Director failed to administer these benefits in the best interests of the City, the Director could be relieved of responsibility by the Mayor.

Placing the WCD under the Human Resources Department would be consistent with the practices of other jurisdictions. Among the 15 other California cities and counties that responded to our survey, workers compensation programs are administered by Departments of Human Resources in seven jurisdictions, by Risk Managers in seven jurisdictions, and by the City Attorney in one jurisdiction.

The WCD should be transferred to the Human Resources Department because:

- San Francisco voters have approved a Charter amendment authorizing the City to transfer its workers compensation program to the Human Resources Department;
- The workers compensation program is consistent with the functions of the newly created Human Resources Department;

- There are numerous structural and managerial advantages to placing the WCD under the Human Resources Department, as noted above; and,
- This transfer would be consistent with the practices of other California jurisdictions.

Disability Retirements

Some public safety employees retire on the basis of industrial disability, and are eligible to receive disability retirement allowances, or pensions, following their retirement for disability. In addition, the WCD provides medical treatment for the work-related injuries and illnesses of employees who retire for disability. (Disability retirement benefits are discussed in detail in Section 4 of this report.)

The ERS administers disability retirement benefits pursuant to Charter Section 3.671, which provides that the Retirement System shall be, "the sole authority and judge, under such general ordinances as may be adopted by the Board of Supervisors," concerning the administration of retirement benefits. Disability retirement allowances are administered by the ERS Retirement Services Division. However, in some instances, the amount of these disability retirement allowances is based on the outcome of workers compensation permanent disability claims which are administered by the WCD (as discussed in Section 4 of this report).

In addition, the Charter specifically requires that medical benefits provided to Tier I employees (hired before November 1, 1976) who are retired for disability shall be "furnished in the same manner" as workers compensation benefits. Thus, if the WCD is transferred to the Department of Human Resources, the Human Resources Department would be required to administer medical benefits provided to employees who retire for disability, while the ERS Retirement Services Division would administer the disability retirement allowances paid to these employees.

In summary, the Charter contains provisions for the administration of disability retirement benefits by a number of agencies, including:

- (1) The Workers Compensation Division, which (a) negotiates workers compensation permanent disability benefits which, in some cases, determine the amount of the disability retirement allowance, and (b) provides medical benefits in cases of disability retirement;
- (2) An independent hearing officer, who, under the Charter, grants final approval to each disability retirement application; and,
- (3) The ERS Retirement Services Division, which administers retirement allowances (pensions), including disability retirement allowances.

For this reason, clarification should be obtained from the City Attorney concerning the extent to which the recent Charter Amendment authorizes the

transfer of jurisdiction over disability retirement benefits from the WCD and the Retirement Services Division of the WCD to the Department of Human Resources. In the event that it does not authorize such a transfer, the Board of Supervisors should sponsor a Charter amendment to transfer disability retirement functions which are currently performed by the WCD to the Department of Human Resources.

The administration of disability retirement functions now performed by the WCD should be performed by the Department of Human Resources because:

- An employee's eligibility for an industrial disability retirement depends on the evaluation of the effects of work-related injuries;
- The amount of disability retirement pension benefits for Tier I employees (hired before November 1, 1976) are calculated based on decisions which are made in permanent disability claims, which are administered by the WCD; and,
- The Charter requires that medical benefits provided to Tier I employees who retire for disability shall be furnished "in the same manner" as workers compensation benefits. According to the City Attorney, the WCD is also responsible to provide ongoing medical treatment of work-related injuries for Tier II employees who retire for disability, although this is not specifically stated in the Charter.

Integrating Employee Health Care Benefits Provided by the HSS and WCD

Under the recent Proposition L Charter Amendment, the Health Service System (HSS) must be transferred to the Department of Human Resources no later than October 1, 1995.

As noted above, a primary benefit of transferring the WCD to the Department of Human Resources Department would be to integrate health care benefits which are currently provided independently by the HSS and the WCD. The potential benefits of integrating HSS and WCD functions include:

- *Preferred Provider Discounts*
Based on the volume of health care services purchased by the City, the HSS has negotiated fees for employee health care services which are significantly lower than current market rates, and which are also lower than standard preferred provider discounts. By integrating workers compensation health care services in existing HSS contracts, the WCD could reduce its costs for health care services. By consolidating the City's demand for all health care services, it is possible that even higher discounts could be realized by both the HSS and the WCD.

- *Services of Health Care Organizations*

Recent State legislation has authorized the use of new workers compensation health care organizations to provide medical treatment to injured workers. The HSS currently contracts with several health care organizations to provide standard health care benefits. It may now be possible to contract with a limited number of health care organizations to provide a full range of employee health care services.

- *Consolidation of Administrative Functions*

Both the WCD and the HSS utilize independent contractors to perform utilization review and medical case management services. By integrating these functions, the City could potentially reduce its total administrative costs for such services while providing more effective controls over WCD medical costs.

- *Integrated Payment Processing*

The HSS and WCD currently issue payments to medical providers without reconciling their records to prevent duplicative payments. By integrating or consolidating payment systems, the City will reduce or eliminate the risk of duplicative payments for health care services.

Section 7.4 of this report includes a more detailed discussion of these potential benefits.

Creation of a Benefits Administrator

The City currently administers three types of benefits to employees or retired employees: (1) workers compensation benefits; (2) pension benefits; and (3) health benefits. As noted above, disability retirement benefits involve a combination of all three of these benefit categories. There are many functional relationships among these benefits, in that all of these employee benefits involve:

- Eligibility determination;
- Benefit calculation;
- Maintenance of employee records;
- Procurement of health services; and
- Issuing warrants.

Because of these functional relationships among employee benefit programs, we believe that all employee benefit programs could be most effectively administered by the Human Resources Department. However, the administration of retirement benefits cannot be transferred from the ERS to the Department of Human Resources because the Charter currently requires retirement benefits to be administered by the ERS, and this Charter requirement has not been amended. In addition, State Proposition 162, approved by California voters in November,

1992, may preclude the transfer of the ERS Retirement Services Division from the jurisdiction of the Retirement Board to the Department of Human Resources.⁴

In order to oversee and coordinate the City's employee benefit programs, we recommend that the Department of Human Resources appoint a Benefits Administrator. The proposed Benefits Administrator in the Department of Human Resources should directly oversee the administration of employee benefit programs by the WCD and the Health Service System, and should work cooperatively with the Retirement Services Division of the ERS to ensure that the retirement benefits of City employees are provided in the most efficient and effective manner. Other general responsibilities of the Benefits Administrator should be to:

- Assist the Department of Human Resources in negotiating employee benefits with labor organizations and estimating the City's total cost for employee benefit programs;
- Analyze and implement opportunities to consolidate or coordinate functions which are now performed independently by the Health Service System and the Workers Compensation Division;
- Coordinate the provision of employee health care services by the Workers Compensation Division and the Health Service System;
- Ensure that personnel records are adequately maintained in order to make accurate and efficient eligibility determinations for the WCD, the HSS, and, in cooperation with the ERS, the ERS Retirement Services Division; and,
- Provide overall policy guidance concerning the provision of employee benefits.

For the immediate future, the services of the Benefits Administrator are needed in order to ensure the effective integration of the Workers Compensation Division with the Human Resource Department, as recommended in this report. In particular, the Benefits Administrator should oversee the development of the WCD's strategic plan, and should be assigned responsibility to ensure that the City's workers compensation program is managed in an effective manner. Therefore, we recommend that the Benefits Administrator should have specific executive experience in managing a self-insured and self-administered workers compensation program. However, the specific qualifications for this position should be determined by the Civil Service Commission based on a review of program requirements and wider industry standards.

⁴ Proposition 162 amended the State Constitution to provide that "the retirement board of a public pension or retirement system shall...have sole and exclusive responsibility to administer the system in a manner that will ensure prompt delivery of benefits and related services."

Strategic Plan

In order to establish an effective workers compensation program, the City should develop a strategic plan which outlines specific objectives for the future development of the City's workers compensation program, including the integration of the activities of the WCD, the third party claims administrator, and the Workers Compensation Task Force. The ensuing sections of this report include detailed recommendations for improved management of the City's workers compensation program. The strategic plan should address all of the recommendations included in this report. These recommendations include, but are not limited to:

- Providing overall workers compensation policy guidance and direction, including the analysis and implementation of recent legislative reforms governing workers compensation benefits;
- Providing policy guidance concerning the City's personnel management practices and labor relations agreements which affect the City's workers compensation costs;
- Developing more effective internal procedures for the administration of claims;
- Developing strategies for more effective management and control of medical treatment services;
- Developing prioritized workers compensation cost containment strategies; and,
- Developing effective internal personnel administration practices to promote the hiring, training, and promotion of skilled WCD technical staff.

Provided that the WCD is transferred to the Department of Human Resources and a Benefits Administrator is retained effective July 1, 1994, we believe that the strategic plan should be completed within 12 months, or by July 1, 1995.

Conclusions

Placement of the City's Workers Compensation Division under the Employees Retirement System is inappropriate, because: (1) the Retirement Board is not fully accountable to the Mayor or the Board of Supervisors; (2) there is a poor functional relationship between workers compensation and managing the Retirement Trust Fund; and, (3) numerous indicators suggest extensive management deficiencies of the WCD as a result of the current organizational structure. Therefore, we believe that the WCD should be administered by the Department of Human Resources, under the auspices of a Benefits Administrator. In addition to overseeing the workers compensation program, the

Benefits Administrator could coordinate a variety of employee benefit programs and initiatives, and provide comprehensive policy guidance concerning employee benefit programs.

Recommendations

The Board of Supervisors should:

- 1.1-1 Adopt an ordinance to transfer the functions and responsibilities of the WCD to the new Human Resources Department, as authorized by the recent "Proposition L" Charter Amendment which created the Department of Human Resources;
- 1.1-2 Obtain clarification from the City Attorney concerning Charter requirements concerning the administration of disability retirement benefits, and propose a Charter amendment to transfer disability retirement functions which are now performed by the WCD to the Department of Human Resources, if such a transfer is not currently authorized under the recent Proposition L Charter Amendment;
- 1.1-3 Approve the creation of a Benefits Administrator position within the Department of Human Resources;

The Human Resources Department should appoint a Benefits Administrator to:

- 1.1-4 Oversee the integration of the Workers Compensation Division within the Human Resources Department;
- 1.1-5 Oversee the development of the WCD's strategic plan, to be completed by July 1, 1995; and,
- 1.1-6 Undertake management initiatives to ensure that the City's workers compensation program is managed in an effective manner.
- 1.1-7 Oversee the integration, including potential coordination or consolidation, of health care services which are now provided separately by the WCD and the Health Service System.

The City Attorney should:

- 1.1-8 Clarify the extent to which the recent Charter Amendment authorizes the transfer of jurisdiction over disability retirement benefits from the Employees Retirement System to the Department of Human Resources.

Costs/Benefits

Implementing this recommended organizational structure would: (1) increase the WCD's accountability to the Mayor and the Board of Supervisors; (2) provide increased expertise and attention to workers compensation issues; and (3) improve the administration of employee benefit programs.

The creation of a Benefits Administrator position would result in salary and benefits costs for this position. However, these costs could be offset by savings resulting from (1) the more efficient administration of employee benefit programs, and (2) reduced costs for workers compensation benefits as the result of more effective program management.

SECTION 1.2: PROCUREMENT OF CLAIMS ADMINISTRATION SERVICES

- THE CITY'S CLAIMS ADMINISTRATION FUNCTIONS ARE NOW DIVIDED BETWEEN THE WCD AND A THIRD PARTY ADMINISTRATOR, AND A DECISION IS NEEDED CONCERNING WHETHER CLAIMS WILL BE ADMINISTERED BY THE WCD OR BY A THIRD PARTY ADMINISTRATOR.
- THERE ARE MORE ADVANTAGES AND FEWER DISADVANTAGES TO PROVIDING CLAIMS ADMINISTRATION IN-HOUSE THAN CONTRACTING FOR SUCH SERVICES. HOWEVER, MANY ASPECTS OF THE WCD'S CLAIMS ADMINISTRATION PRACTICES WOULD NEED TO BE IMPROVED IN ORDER TO OPERATE AN EFFECTIVE CLAIMS ADMINISTRATION UNIT.
- IN ACCORDANCE WITH CHARTER REQUIREMENTS, THE CITY SHOULD UTILIZE THE SERVICES OF A THIRD PARTY CLAIMS ADMINISTRATOR ON A TEMPORARY BASIS, UNTIL EFFECTIVE SYSTEMS HAVE BEEN DEVELOPED FOR THE IN-HOUSE ADMINISTRATION OF ALL OF THE CITY'S WORKERS COMPENSATION CLAIMS. THEREFORE:
 - (A) THE WCD, IN CONJUNCTION WITH THE MAYOR'S OFFICE AND THE WORKERS COMPENSATION TASK FORCE, SHOULD NEGOTIATE WITH THE NOETICS GROUP FOR CONTINUED ADMINISTRATION OF WORKERS COMPENSATION CLAIMS BEYOND THE EXPIRATION OF THE CURRENT CONTRACT ON JUNE 30, 1994.
 - (B) THE NEW DEPARTMENT OF HUMAN RESOURCES, WHICH THE BUDGET ANALYST RECOMMENDS SHOULD ASSUME OVERSIGHT OF THE WCD, SHOULD DEVELOP A STRATEGIC PLAN AND PROPOSED OPERATING BUDGET FOR RESUMING ALL CLAIMS ADMINISTRATION FUNCTIONS BY WCD STAFF. THE STRATEGIC PLAN AND PROPOSED OPERATING BUDGET SHOULD BE USED TO COMPARE THE CITY'S COSTS WITH TPA CONTRACT COSTS IN ANY REQUEST TO CERTIFY A TPA CONTRACT UNDER "PROPOSITION J."
 - (C) THE WCD SHOULD EXTEND THE TPA CONTRACT THROUGH JUNE 30, 1996, PENDING THE DEVELOPMENT OF A STRATEGIC PLAN AND PROPOSED OPERATING BUDGET FOR THE ADMINISTRATION OF ALL CLAIMS BY THE WCD.

In response to recommendations made by the Workers Compensation Task Force and the Board of Supervisors, the City retained the services of a third party claims administrator, the Noetics Group, in May 1993 in order to increase the City's claims administration capacity. The Noetics Group was selected through a competitive bidding procedure and assumed responsibility for administering approximately 50 percent of the City's workers compensation claims, effective May 1, 1993. The current contract with the Noetics Group will expire on June 30, 1994.

With this contract, the City's claims administration functions are now divided between the WCD and the Noetics Group. However, the City's claims administration functions should not be divided between two agencies, but should be consolidated under a single claims administrator, because:

- (1) The WCD and the Noetics group currently maintain separate and distinct claims data for the claims they administer. This data is not compiled in a single database, and information is not entered in the two separate databases in a consistent fashion. As a result, the City lacks a central source of information concerning claim statistics and medical costs, information is reported in different formats (which may not reconcile), and the City is unable to compile and analyze workers compensation data and program costs in the most effective and efficient manner.
- (2) Some of the operating costs for two claims administrators are duplicative. For instance, both the WCD and the Noetics Group operate and maintain management information systems to administer claims, and the City funds the costs of both computer systems. A single claims management information system to manage all claims would probably be less costly than maintaining two separate computer systems. Other examples of operating costs which could be minimized through the use of a single claims administrator include rent, telephones, staff training, and publications.
- (3) Operating procedures may be inconsistent when two claims administrators are used. To administer benefits effectively, extensive communication and cooperation is required among the claims administrator, claims examiners, department representatives, medical providers, and the City Attorney. State law outlines specific reporting requirements and deadlines for the exchange of information among physicians, the claims administrator, and the injured worker. The use of a single claims administrator, rather than two agencies, will enable the City to employ consistent channels of communication and standard reporting procedures.

Although the Workers Compensation Task Force, the Mayor's Office, and WCD managers have suggested that the performance of the third party administrator (TPA) should be compared to the WCD's performance in order to determine which claims administrator is more effective in managing the City's

workers compensation claims, no systematic planning for such a comparative performance evaluation has been conducted by the Task Force, the Mayor's Office, or the WCD. Nonetheless, a decision is needed concerning whether the WCD or a third party administrator should administer the City's workers compensation claims.

Under Charter Section 8.300, the City is prohibited from contracting for services which can be performed by Civil Service employees, except in limited circumstances (these Charter provisions are discussed in detail below). On the basis of the legal requirements of the City Charter, as discussed below, we recommend that the City utilize the services of a third party administrator on a temporary basis only, until such time as the WCD has been transferred to the Human Resources Department and a strategic plan and proposed operating budget have been developed for the in-house administration of all of the City's workers compensation claims. The continued services of the TPA should be based on the Controller's certification of any estimated cost savings only after the strategic plan and proposed WCD operating budget have been developed by the Department of Human Resources.

Finally, since the current contract with the Noetics Group is currently scheduled to expire on June 30, 1994, we recommend specific actions which should be taken in order to plan for the administration of workers compensation claims during FY 1994-95.

Policy Guidance and Oversight

Although a third party administrator under contract to the City can perform technical claims administration functions on behalf of the City, a continued in-house capacity is still needed to manage and oversee the performance of the City's workers compensation program. Some of the functions which should be performed in-house by the City's workers compensation managers, even if a TPA is used to administer claims, include the following:

- Monitoring the performance of the third party claims administrator;
- Developing health care systems for providing medical treatment in workers compensation claims;
- Coordinating effective cost containment strategies, including light duty assignments and accident prevention programs;
- Providing specific guidance to department managers in workers compensation issues, including standards for the reporting and investigation of claims and the implementation of cost containment strategies;

- Providing policy guidance to City officials in workers compensation issues, including the development of reliable estimates of the City's annual workers compensation costs and the effects of recent legislative reforms;
- Developing consistent eligibility criteria for disability retirement benefits which are administered by the WCD.

In addition to claims administration services, these management functions are required to ensure that benefit determinations are made consistently and that benefits are provided according to State and local law. As discussed in Section 1, we believe that overall management of the City's workers compensation program can be performed more effectively by the new Department of Human Resources than by the Employees Retirement System. However, the decision to perform claims administration in-house by a City agency using City employees, or by a third party administrator under contract, is independent of the organizational decision to transfer the workers compensation program to the Department of Human Resources.

A third party claims administrator is not inherently more qualified to control workers compensation costs than is an in-house administrator. With appropriate expertise, technical staff, and management information systems, claims can be administered equally effectively by either a City agency or a third party administrator. The following discussion concerns the advantages and disadvantages of a third party administrator, not in terms of administering benefits and controlling the associated costs of those benefits, but in terms of other structural and organizational aspects of the City's overall workers compensation program.

Advantages and Disadvantages of a Third Party Administration

There is only one principal advantage to contracting with a Third Party Administrator for claims administration services: specifically, if the City were not satisfied with the performance of the contractor, the contract could be terminated, and the City could either locate another contractor, or conduct claims administration services in-house. The use of a TPA may give the City greater flexibility in managing workers compensation costs than is possible when claims are administered by a City agency using Civil Service employees. However, termination of a TPA contract and replacing such services with another contractor could easily result in additional costs and lapses in necessary services.

There are two primary disadvantages of contracting with a TPA for the administration of all of the City's workers compensation claims. First, contracting with a TPA for all claims would require terminating the employment of City workers currently employed by the WCD. Secondly, contracting for third party claims administration would separate workers compensation policy functions (as discussed above) from claims administration functions. The provision of policy guidance and development of cost containment strategies should be performed by City managers, and such policy guidance should be developed based on careful

ongoing analysis of the City's financial liability for actual workers compensation claims.

Advantages and Disadvantages of Self-Administration

There are three primary advantages to performing claims administration in-house (this is commonly referred to as "self-administration" of claims). First, we believe that workers compensation benefits should be coordinated with other types of employee benefit programs, in order to improve the efficiency and effectiveness of overall benefits administration. For example, health benefits which are provided by the Health Service System and the Workers Compensation program should be coordinated in order to prevent duplicative payments for employee medical services and to realize economies of scale in the procurement of medical services. A Benefits Administrator in the Department of Human Resources could also maintain centralized personnel records regarding all employee benefits for individual workers. In contrast, by contracting with a TPA, the City would be separating similar functions: some benefits would be administered in-house (pension and health benefits), while others would be provided by a contractor (workers compensation).

Second, the management, control and oversight of a contractor is inherently more difficult than the control and oversight of City workers. Even with a dedicated contract monitor, the City would be less able to control the activities of an independent contractor. While the City would be able to terminate the contract if the contractor did not perform satisfactorily, the City would be less able to recommend and implement incremental decisions regarding the disposition of claims, personnel, management information, or any other matter under the contract. Third, if the City were to rely too heavily on the services of a contractor to manage the workers compensation program, over time the City could experience a loss of accountability and control for the services which are provided by the contractor.

The only potential disadvantage of the City's self-administration of claims would result if self-administration entailed higher operating costs compared to the services of a TPA. In other words, if a TPA can perform the same services at less cost, the City would realize savings by hiring a TPA rather than administering claims internally, if claims administration effectiveness were to be the same. However, this determination should be based on the operating costs of claims administration services, and not the program costs associated with the City's total expenditures for workers compensation benefits. As noted above, there is no inherent reason why a TPA should be able to administer claims (and limit benefit payments) more effectively than the City since we assume that the professional expertise, technical personnel, information systems, and other components of an effective claims administration unit can be procured and managed directly by the City, as readily as they can be procured and managed by a private firm.

Based on the discussion above, the following table summarizes the advantages and disadvantages of in-house claims administration, compared to the services of a third party administrator:

Table 1.3
Relative Advantages of In-House Claims Administration
Where "0" Equals Disadvantage
and "1" Equals Advantage

	TPA	In-House
Contract Can Be Terminated	1	0
Avoiding Lay-Off of City Workers	0	1
Cohesion of Claims Administration and Policy Guidance	0	1
Cohesion of Various City Employee Benefits	0	1
Monitoring Performance	0	1
Control of Program Costs Over Time	0	1
TOTAL	1	5

As indicated in Table 1.3, retaining the claims administration function in-house results in a score of five, while contracting with a TPA results in a score of one. A higher score indicates more advantages and/or fewer disadvantages. While the above table does not weight the different factors for importance, weighting the factors would result in an even higher score for retaining workers compensation claims administration in-house; since: (1) avoiding lay-offs, cohesion of various City functions, cohesion of the program as a whole, and control and oversight are more important than the ability to terminate a contract; and (2) any potential cost savings from contracting with a TPA cannot be determined at this time, but would have to be substantial in order to outweigh the benefits of an in-house claims administration program. For these reasons, we believe the City's overall long-term objective should be to continue claims administration in-house, instead of contracting with a TPA.

However, as indicated throughout this report, many aspects of the WCD's claims administration practices would need to be improved significantly in order to operate an effective in-house workers compensation program. For this reason, and to conform to Charter requirements (as discussed below), we recommend that the City continue to use the services of a third party claims administrator on a temporary basis, pending the development of a strategic plan for more effective in-house administration of workers compensation claims, including all organizational and operating changes recommended in this report.

Charter Requirements for Personal Services Contracts

Section 8.300 of the City Charter requires that, except in a limited number of special circumstances, all City services must be performed by Civil Service employees. One such exception appears at Charter Section 8.300-1 (the "Proposition J" Amendment), which provides that personal services may be performed by an independent contractor, if the Controller certifies that the contractor can perform services at a lower cost to the City than the cost of similar services which are performed by City employees. In the absence of a certification of such cost savings by the Controller, independent contractors can generally be used only to provide, "expert professional temporary services... for a specified period of said temporary service, by order of the Civil Service Commission."¹

The Civil Service Commission has not adopted a definition of services which are "temporary" in nature. As previously reported by the Budget Analyst, Civil Service Commission approval of non-Proposition J contracts depends on a showing that, (1) Civil Service classifications are not available to perform the services, or (2) even where Civil Service classes do exist, the contractor's services are "immediately needed, short-term in nature, or involve specialized services on an intermittent or periodic basis."²

Thus, based on Charter requirements, the City can contract for the services of a third party claims administrator only if:

- (1) The Controller certifies that the TPA can perform services at less cost than "similar services" provided by Civil Service employees, or,
- (2) The Civil Service Commission approves a TPA contract based on the need for expert professional services because (1) Civil Service classifications are unavailable, or (2) the services are temporary in nature.

The City's contract with the Noetics Group for third party administration of claims was based on the City's immediate need for an increase in its claims administration capacity.³ However, the Charter clearly states that, if Civil Service classifications can perform the necessary services, a non-Proposition J contract must be limited in duration, and the services provided must be temporary in nature.

¹ Charter Section 8.300(a)(5).

² Board of Supervisors Budget Analyst, "Analysis of Personal Service Contracts of a Planning, Design, or Environmental Review Nature," November 1992.

³ In its application to the Civil Service Commission for approval of the contract, the ERS noted that the TPA will provide "office space, personnel, [and a] computer system" which are not currently possessed by the City, and that Civil Service positions cannot perform the necessary services because, "despite many attempts, the City has never been able to recruit sufficient qualified adjusters to fill the authorized positions in the [8141 Claims Adjuster] classification."

Proposition J Certification of Third Party Administration

The ERS has not attempted to secure approval of a Proposition J contract for the services of a TPA, based on a demonstration of lower operating costs associated with claims administration by the TPA. As shown in Table 1.4 on the following page, the budgeted operating costs of both the TPA and the WCD are approximately \$2.8 million in 1993-94. Since both agencies administer a similar number of claims, their operating costs, based primarily on the number of claims per adjuster, are quite similar. However, we believe that the current operating costs of the WCD provide an insufficient basis on which to compare the costs of a TPA with the costs of an in-house claims administration unit. This is because important WCD operating costs have not been subject to competitive selection, as discussed in Section 6 of this report. For this reason, the WCD's current operating costs cannot be used to provide a reliable estimate of the minimum cost to the City of an in-house claims administration unit.

Any comparison of the operating costs of a third party administrator and the WCD (for purposes of potential Proposition J certification of a permanent TPA contract), should be based on the costs of performing claims administration services through the Department of Human Resources, rather than the current operating costs of the WCD within the Employees Retirement System.

As discussed above, we believe that there are significant organizational and policy advantages, not specifically tied to cost considerations, in administering claims through a City agency rather than a TPA. However, if Proposition J certification for the TPA contract is sought by the Department of Human Resources, a comparative cost analysis should be performed only after the Department has prepared its strategic plan, assessed its overall resource needs, and developed a proposed operating budget for continued in-house claims administration services.

Strategic Planning for Claims Administration Services

In order to manage workers compensation claims effectively, we accept the recommendation of the State Department of Industrial Accidents that caseloads should not exceed 200 active indemnity claims per adjuster. On this basis, and in view of the lack of a sufficient number of WCD claims adjusters at the present time, the services of a third party administrator are needed to maintain caseloads at the State-recommended level of 200 active indemnity claims per adjuster.

However, in accordance with Charter requirements, these services should be regarded as temporary in nature, until (1) an adequate in-house claims administration capacity is developed for the administration of all claims by the WCD, using Civil Service employees, or (2) the Controller has certified that the operating costs of a TPA are lower than the cost of providing similar services through an in-house claims administration unit, and a contract for third party administration is approved by the Board of Supervisors on this basis.

TABLE 1.4
COST COMPARISON OF WORKERS COMPENSATION DIV. AND THE NOETICS GROUP, 1993-94

NOETICS				WORKERS COMP. DIVISION			
<u>Personnel Budget</u>	<u>FTE</u>	<u>Amount</u>	<u>Total Salary</u>	<u>Personnel Budget</u>	<u>FTE</u>	<u>Amount</u>	<u>Total Salary</u>
Claims Manager	1	89,989	89,989	Division Manager	1	87,330	87,330
Assistant Manager	2	60,004	120,007	Claims Supervisors	4	60,865	243,460
Claims Adjuster	18	47,507	855,130	8141 Claims Adjusters	7	47,894	335,258
QRR	1	60,003	60,003	1812 Adjuster trainees	11	42,047	462,517
Claims Assistant	9	24,993	224,939	<u>Claims Processors</u>			
Support	4	24,993	99,973	1404 Clerk	1	29,780	29,780
				1810 Actuarial Clerk	2	35,026	70,052
				1630 Account Clerk	1	31,999	31,999
				1813 Office Manager	1	47,685	47,685
				<u>Bill Paying Unit</u>			
				1810 Actuarial Clerk	1	35,023	35,023
				1626 Jr. Accnt Clerk	2	25,083	50,166
				<u>Central File Unit</u>			
				1426 Sr. Clerk Typist	2	33,878	67,756
				1626 Jr. Accnt Clerk	4	25,083	100,332
				1404 Clerk	2	29,780	59,560
Subtotal	35		1,450,041	Subtotal	39		1,620,918
Fringe Benefits	25%		362,510	Fringe Benefits	23%		369,569
Total Personnel			1,812,551	Total Personnel			1,990,487
<u>Operating Expense</u>				<u>Operating Expense</u>			
Admin Overhead*		208,504		Reviewco bill review			385,315
Profit		310,000					
Rent		216,570		1155 Market St			134,197
Maint & Repair		3,000					
Util + Janitor		24,000		Light Heat Power			4,021
Insurance		21,600					
Telephone		42,000		Telephone			21,377
Supplies, Print, Reprod.		30,000		Mat, Sup, Reprod.			55,225
Computer		72,000		Corporate Systems			180,000
Purchase of Eq & Furn		25,000		Controller Data Proc.			66,124
Rental/Leasing Eq & Furn		4,800		Eq. repair & rental			12,500
Staff Travel and Transp		12,000		Use of emp. car			120
Staff Trng and Seminars		12,000		Training			3,000
Postage		12,000		Postage			25,000
Publications and subscript		1,200		Membership dues			850
Financial audit and legal		12,000					
Courier service		4,200		Deliverex/messenger			11,115
Business tax and license		1,200					
Total Operating Expense		1,012,074		Total Operating Expense			898,844
TOTAL COST		2,824,625		TOTAL OPERATING COST			2,889,331
*Includes \$164,504 contract cost > original budget				Reviewco PPO network			350,000
				GRAND TOTAL			3,239,331
Hours/Hourly cost:		72,800	\$38.80	Hours/Hourly cost:*		81,120	\$35.62
				* Does not include costs for Reviewco PPO network			

In Section 1.1 of this report, we recommended that the Department of Human Resources assume direction of the functions of the WCD, and that a Benefits Administrator develop a strategic plan for the management of the WCD which incorporates the specific management improvements which are recommended in this report. If the Benefits Administrator is retained by July 1, 1994, we believe the strategic plan should be completed by July 1, 1995.

The City should continue to utilize the services of the current third party claims administrator until the Department of Human Resources has developed its strategic plan for implementing the necessary improvements in WCD operations. As part of the strategic plan, the recommended Benefits Administrator should assess the ability of the WCD to administer workers compensation claims in an efficient and effective manner, and should develop a proposed operating budget for the WCD's claims administration functions. In addition, the Benefits Administrator should advise the Mayor, the Board of Supervisors, and the Workers Compensation Task Force concerning the relative advantages or disadvantages of continued administration of claims by the WCD. However, for reasons described above, we recommend that the Department of Human Resources should establish a target date of July 1, 1996 for resuming all workers compensation claims administration activities and that the WCD, in conjunction with the Mayor's Office and the Workers Compensation Task Force, should negotiate with the Noetics Group for continued administration of workers compensation claims through June 30, 1996, to allow for the implementation of an effective WCD claims administration unit for all claims.

However, on the basis of the proposed WCD operating budget developed by the Benefits Administrator, the Department of Human Resources could seek to obtain Proposition J certification from the Controller for the services of a third party claims administrator. The decision to request or to adopt Proposition J certification for such a contract would be a policy decision for the Department of Human Resources, the Mayor, and the Board of Supervisors.

In order to resume claims administration functions with Civil Service employees, the Department of Human Resources should take necessary steps to recruit, hire, and train an appropriate number of qualified workers compensation claims adjusters for the WCD by June 30, 1996.

Conclusions

There are significant advantages to the City in performing claims administration services in-house, rather than contracting for the services of a third party claims administrator. However, the WCD currently does not have a sufficient capacity to administer all of the City's workers compensation claims, and the services of a third party administrator should be continued until an increased internal capacity can be developed. Any permanent arrangements for third party administration should be contingent upon a comparative analysis of the operating costs of a TPA and a claims administration unit within the Department of Human Resources, which should be performed only after the Human Resources Department

has implemented improvements to correct deficiencies noted in this report and developed an operating budget for the WCD which reflects competitive selection procedures for obtaining the necessary facilities and services.

Recommendations

The WCD should:

- 1.2-1 Negotiate with the Noetics Group for continued administration of workers compensation claims beyond the expiration of the current contract on June 30, 1994, and,
- 1.2-2 Extend the current TPA contract through June 30, 1996, pending the development of a strategic plan for management improvements within the WCD.

The Department of Human Resources should:

- 1.2-3 Establish a target date of July 1, 1996 for resuming all workers compensation claims administration activities, and take necessary steps to recruit, hire, and train an appropriate number of qualified workers compensation claims adjusters for the WCD.
- 1.2-4 Seek to obtain Proposition J certification for TPA services based on the proposed WCD operating budget developed by the Department of Human Resources as part of the WCD strategic plan, compared to proposed TPA contract costs, if the Department of Human Resources wishes to continue to utilize the services of the third party administrator after July 1, 1996.

Costs/Benefits

Providing claims administration in-house would avoid lay-offs, and would provide cohesive management of various City functions, cohesion of the program as a whole, and improved control and oversight of claims administration functions. The costs of an in-house claims administration unit should be determined based on caseload data to determine the number of adjusters needed for claims administration, and based on competitive selection initiated by the Department of Human Resources for other necessary facilities and services.

If all claims were administered by the WCD, the increased costs of performing all claims administration services in-house would be offset by a decrease in the City's costs for third party administration of claims. If the Controller certifies that a third party administrator can perform services at less cost than the WCD, based on a proposed WCD operating budget included in the WCD strategic plan, a TPA contract could be approved under Proposition J, at a cost savings to the City.

SECTION 2: ADMINISTRATION OF THE WCD

Introduction

In this section, we address the quality of management practices for the internal administration of the Workers Compensation Division. Our focus is on internal systems and management practices which have a direct relationship to the administration of workers compensation benefits.

This section of our report includes the following subsections:

Section 2.1: Policies and Procedures

Section 2.2: Personnel Administration

Section 2.3: Training and Reference Materials

SECTION 2.1: POLICIES AND PROCEDURES

- THE WORKERS COMPENSATION DIVISION HAS NOT ESTABLISHED FORMAL POLICIES AND PROCEDURES, WHICH ARE ESSENTIAL FOR THE EFFECTIVE ADMINISTRATION OF WORKERS COMPENSATION CLAIMS. WCD EMPLOYEES UNIFORMLY STRESSED THE IMPORTANCE OF SUCH FORMAL POLICIES AND PROCEDURES.
- UNLIKE WORKERS COMPENSATION PROGRAMS IN MOST OTHER CITIES AND COUNTIES, THE WORKERS COMPENSATION DIVISION DOES NOT HAVE A WRITTEN POLICIES AND PROCEDURES MANUAL.
- A WRITTEN POLICIES AND PROCEDURES MANUAL WOULD HELP ENSURE THAT THE DIVISION ADMINISTERS WORKERS' COMPENSATION BENEFITS IN ACCORDANCE WITH STATE LAW, WHILE MINIMIZING TOTAL COSTS TO THE CITY.
- ESTABLISHING AND FOLLOWING WRITTEN POLICIES AND PROCEDURES COULD REDUCE WORKERS' COMPENSATION COSTS SUBSTANTIALLY, AND WOULD IMPROVE THE QUALITY AND CONSISTENCY OF THE DIVISION'S ADMINISTRATION AND OPERATIONS.

In the course of this audit, WCD employees have consistently stated to the Budget Analyst that the WCD needs consistent policies and procedures in order to ensure the effective administration of workers compensation claims. These employees, including most WCD claims examiners, have noted that the WCD not only lacks a written policies and procedures manual, but lacks any consistent standard operating procedures which are communicated to staff to guide the administration of workers compensation benefits.

There are many general reasons that an organization should adopt policies and procedures, irrespective of individual organizational goals and objectives. Such reasons include:

- to develop a permanent, on-going record of the organization's goals, activities, policies and procedures, a record that is available to all;
- to develop standardized practices to be used by all members of the organization when carrying out daily activities;
- to ensure the consistency, over time, of the practices used by members of the organization;
- to establish written standards against which members of the organization can be measured and held accountable;

- to disseminate information throughout an organization; and
- to create, eliminate, or modify organizational practices in a timely manner.

These general reasons for the development of organizational policies and procedures are particularly vital to an organization such as the WCD, which is governed by complex laws and regulations and which expends approximately \$40 million annually based on the benefit determinations which are made by program staff.

Examples of specific areas in which formal WCD policies and procedures are needed include the following:

- Procedures for investigating the circumstances of an injury in order to determine if the injury is compensable under the workers compensation laws;
- Policies and procedures for the coordination of claim administration activities and claims data with individual City departments;
- Procedures for the referral of City employees to physicians or specialists who can provide appropriate treatment of work-related injuries;
- Procedures for monitoring the level of medical treatment which is provided to injured workers, in order to monitor and control medical costs;
- Procedures for recording data in a consistent format in the WCD's claims management information system;
- Procedures for coordination of claim activity with the City Attorney's Office when disputed claims are litigated before the Workers Compensation Appeals Board.

The Workers' Compensation Division does not have a written policies and procedures manual. Based on our survey of 16 California jurisdictions, two-thirds provide internal written policies and procedures manuals, and virtually every jurisdiction provides some written resources for use by claims adjusters (see Section 2.3).

The need for defined policies and procedures was clearly identified by WCD employees. In response to the employee survey and in interviews with the Budget Analyst, the following comments were made by WCD claims examiners who are directly responsible for evaluating claims and determining the amount of workers compensation benefits which are payable by the City:

- "The Labor Code states what must be done, but not how."
- "Things are always changing. Claims are a function of the year of the claim and which rules apply on the date of injury. You need a book with this kind of information, e.g. temporary disability rates, permanent disability rates, things you use a lot. It's a struggle to get any kind of information."
- "There's a lot of basic confusion about, 'what do we do now.'"
- "You can get three different answers from three different supervisors -- even about the law."
- "[The WCD] needs to get coordinated from the top of the pyramid regarding basic procedures, for instance how to set up a claim, how to use the diary, information on fines."
- "I think the biggest fault of our department is that we react to what we get instead of going after what we can. But it requires an agenda, a plan of action, and we have no policies."
- "WCD management needs to set policies and procedures for claim handling so that the entire department operates on the same standards."

As these employees observed, the Division could benefit from policies and procedures that:

- (1) Provide specific guidance in regard to compliance with federal, State and local laws governing the administration of claims, and, in particular, with changes to laws and regulations;
- (2) Provide guidance in regard to specific, complex benefit determinations;
- (3) Direct the overall performance of the Division through proactive management based on effective claims administration and cost containment strategies.

Claims examiners and supervisors repeatedly expressed concern over the absence of defined policies and procedures, written or otherwise, to guide their activities in administering workers compensation benefits. The following ratings were assigned by WCD staff who completed our employee survey concerning the quality, availability, and importance of policies and procedures:

Table 2.1
Ratings Assigned by WCD Staff
To WCD Policies and Procedures

Ratings concerning the availability of written policies and procedures:

	<u>Poor</u>	<u>Fair</u>	<u>Satisfactory</u>	<u>Good</u>	<u>Excellent</u>
Supervisors (n=3)	2	1	--	--	--
Adjusters (n=11)	11	--	--	--	--
Support Staff (n=7)	1	4	--	--	--

Ratings concerning the quality of written policies and procedures:

	<u>Poor</u>	<u>Fair</u>	<u>Satisfactory</u>	<u>Good</u>	<u>Excellent</u>
Supervisors (n=3)	2	--	1	--	--
Adjusters (n=11)	10	--	--	--	--
Support Staff (n=7)	2	2	--	--	--

Ratings concerning the importance of written policies and procedures:

	<u>Essential</u>	<u>Somewhat Important</u>	<u>No Opinion</u>	<u>Not Important</u>	<u>Unnecessary</u>
Supervisors (n=3)	3	--	--	--	--
Adjusters (n=11)	7	3	1	--	--
Support Staff (n=7)	5	1	1	--	--

As the above table indicates, employees believe that policies and procedures are very important, and that the policies and procedures provided by the Department are inadequate.

Established policies and procedures for the administration of claims are particularly important to an organization, such as the WCD, which has relied extensively on examiner trainees to administer workers compensation benefits. The WCD claims examiner trainees have consistently reported that the lack of standard operating procedures has impeded their ability to administer claims in an effective fashion. A formal policy and procedures manual should be developed not only to systematize complex claims administration practices throughout the organization, but also to provide an essential orientation and training tool for less experienced claims examiners.

Finally, the development of written policies and procedures and the clear communication of performance standards to WCD staff would strengthen the WCD's ability to evaluate individual employees based on their performance, and to make appropriate decisions concerning training and promotion.

Some of the adverse effects of the WCD's lack of policies and procedures are as follows:

- Operational practices are carried out inconsistently by employees. For instance, claims examiners provided inconsistent accounts of their responsibility to ensure that an employee returns to work following a period of disability, and also provided very disparate accounts of WCD procedures for the review and approval of medical bills;
- The lack of clear standards for investigating and approving claims exposes the City to increased liability for the payment of workers compensation benefits. As discussed in Section 6, 80 percent of claims examiners reported that more claims could be denied as "non-compensable" if appropriate procedures were followed for the review and investigation of claims;
- The WCD is managed reactively, rather than proactively. The control of workers compensation costs requires (1) aggressive management of claims by highly proficient workers compensation professionals, combined with (2) management initiatives to reduce the incidence of claims, such as return-to-work or injury prevention programs. Therefore, WCD policies and procedures should encompass (1) a clearly defined strategy for controlling claims costs, as well as (2) wider initiatives to reduce the incidence of claims and to promote the early return to work of injured employees.

There are many specific areas in which the absence of consistent policies and procedures has impaired the WCD's performance in administering benefits, hiring, training, and supervising staff, controlling medical costs, and developing adequate record keeping systems. Each of these areas is discussed in detail in the following sections of this report.

Conclusions

The Workers' Compensation Division does not have a written policy and procedures manual. As a result, claims examiners and other staff lack a significant resource which is essential to the management and control of the City's workers compensation costs.

Recommendations

The WCD should:

- 2.1-1 Review the applicability of the third party claims administrator's policies and procedures manual to the internal claims administration practices of the WCD;
- 2.1-2 Prepare and implement a comprehensive policies and procedures manual in the areas of claims administration, records management, and personnel policies, which incorporates new legal requirements for the administration of benefits; and,
- 2.1-3 Ensure that comprehensive policies and procedures are accessible and clearly communicated on a continuous basis to claims examiners and other WCD staff.

Costs/Benefits

By creating written policies and procedures, the WCD would improve the quality and consistency of its administration and operations. Such improvements could result in significant savings to the County as the result of consistent claims administration practices and effective quality controls on the provision of benefits. There should not be additional costs associated with these improvements, since they should be performed as part of the regular duties of WCD managers and supervisors.

SECTION 2.2: PERSONNEL ADMINISTRATION

- THE ERS HAS NOT MANAGED HUMAN RESOURCES EFFECTIVELY. THE DEPARTMENT HAS:
 - (A) NOT DEVELOPED CONSISTENT CIVIL SERVICE CLASSIFICATIONS BASED ON STANDARD MINIMUM REQUIREMENTS;
 - (B) NOT SPECIFIED CLEAR CRITERIA FOR PROMOTION FOR CLAIMS EXAMINER "TRAINEES" AND OTHERS;
 - (C) ENGAGED IN ARBITRARY HIRING AND PROMOTION PRACTICES, INCLUDING THE APPARENT REVISION OF CLAIMS SUPERVISOR POSITION REQUIREMENTS TO PROMOTE A SPECIFIC EMPLOYEE WHO LACKED PREVIOUSLY REQUIRED WORKERS COMPENSATION CLAIMS EXAMINING EXPERIENCE.
- AS A RESULT, THE DEPARTMENT HAS:
 - (A) IMPEDED EFFORTS TO ATTRACT AND RETAIN HIGHLY TRAINED WORKERS COMPENSATION TECHNICAL STAFF WHO ADMINISTER APPROXIMATELY \$38.5 MILLION IN ANNUAL BENEFITS;
 - (B) CONTRIBUTED TO POOR MORALE AND PERCEPTIONS OF INEQUITY AMONG WCD STAFF; AND,
 - (C) FACILITATED THE PROMOTION TO THE CLAIMS SUPERVISOR POSITION OF AN INDIVIDUAL WHO APPARENTLY LACKED PREVIOUSLY REQUIRED CLAIMS EXAMINING EXPERIENCE, LEADING TO ALLEGATIONS BY WCD STAFF OF NEPOTISM ON THE PART OF ERS MANAGEMENT.
- THE DEPARTMENT SHOULD DEVELOP CONSISTENT CLASSIFICATIONS AND CRITERIA FOR PROMOTIONS, SHOULD CONDUCT REGULAR PERFORMANCE EVALUATIONS, AND SHOULD UNDERTAKE FORMAL STAFF DEVELOPMENT ACTIVITIES IN ORDER TO ATTRACT AND RETAIN A HIGHLY SKILLED PROFESSIONAL STAFF.

Management of human resources is essential for maximizing an organization's effectiveness. In order to attract committed, qualified personnel, employees must feel that they are treated equitably, that they are given adequate opportunities for growth, and that they are given the tools to implement their work effectively. Throughout this study, WCD employees repeatedly complained of perceived inequities, arbitrary hiring and promotion practices, and inconsistency on the part of management. Based on our observations and on our survey, employee morale in the Department is very low. Adequate management of human resources is

especially vital for WCD employees, since these employees are directly responsible for the administration of workers compensation benefits.

Through our evaluation of ERS' management of human resources, we identified problem areas, as follows:

- ***Lack of Consistent Position Classifications***

Employees performing the same work are given different job classifications and paid within different salary ranges. In cases where inequity does not exist, but there are appropriate pay differentials, management has not communicated the reasons for pay differences clearly.

- ***Arbitrary Hiring and Promotion Practices***

We identified four examples of hiring and promotion practices which appear to have been made arbitrarily, including (1) promoting an individual to the position of 8141 Claims Adjuster who lacked the required two years of prior experience examining claims, (2) failing to clearly specify the criteria for promotion for claims examiner trainees, (3) deleting a requirement for any prior claims examining experience from Claims Supervisor position requirements, which permitted an individual who lacked the previously required claims examining experience, and who was reportedly related by marriage to an ERS manager, to qualify as a Claims Supervisor, and (4) neglecting to comply with Civil Service Commission rules for administering an examination to a single candidate.

Although the ERS has recommended that the Civil Service Commission approve a new classification system for the Department, further action is necessary to eliminate perceptions of inequities, administer regular performance evaluations, and establish formal staff development activities in order to attract and retain skilled workers compensation professionals. This section discusses areas of concern, and makes recommendations for improvement.

Need for Consistent Civil Service Position Classifications

It is reasonable for employees to receive different rates of pay if certain conditions are met, even if the employees perform the same job duties. For example, employees may receive different compensation based on the number of years of employment, previous experience, educational background, or the effectiveness with which they perform their duties. Even though it may be reasonable to pay employees different amounts for performing the same work, such practices effectively can result in perceptions of unfairness if employers do not communicate the criteria for the pay differentials.

Criteria for employment may change if the responsibilities of a position become more or less complex and the Department has not made any decision in regard to the qualifications necessary to perform certain jobs. If employees performing the same job are classified differently, and therefore paid within different salary ranges, pay differences that are not equitable can result.

The City's Civil Service system, which defines job duties and salary levels, is meant to ensure the equitable treatment of City employees. However, during interviews for this study, employees repeatedly complained that employees are paid different amounts arbitrarily, and that the qualifications to perform certain jobs are not consistent. Specifically:

- *Clerical Staff in Bill Paying and Central File Units*

Based on our review, employees in these units (two Senior Clerk Typists, an Actuarial Clerk, six Junior Account Clerks) are paid in accordance with the amounts specified by the Annual Salary Ordinance for their classifications. Each classification has a different rate of pay. Whether employees are paid inequitably in this division depends on whether these employees are performing the same job, or whether they are performing duties within the parameters of their respective classifications. In any case, employees in these units perceive that they are being treated unfairly, and that pay is distributed inequitably among the workers.

- *Claims Processors*

A claims processor directly calculates workers' compensation benefits and verifies the continued eligibility of employees for receipt of benefits. The Department reports that three classifications¹ currently act as claims processors. Previously, the WCD used only 1474 Claims Processor Clerks as claims processors. The 1474 Claims Processor classification requires a high school degree and three years related experience. However, the three classifications that currently are used as claims processors require the completion of high school supplemented by only two years of relevant experience in the respective positions. It is apparent that the experience necessary to act as a claims processor has not been clearly defined, and that different employees may be performing the same tasks at different rates of pay. (No formal job analysis had been completed as of the writing of this report.)

Claims processors are responsible for calculating the amount of disability benefits payable to injured workers and for determining the eligibility of City employees for continued workers compensation benefits, an area of major financial concern. The ERS puts the City at risk by not defining the requirements necessary to perform these duties effectively. Also, employees report that morale has been adversely affected by the perception that individuals are paid according to different pay scales to perform the same tasks.

- *Claims Adjusters*

The Workers Compensation Division employs eleven 1812 Assistant Retirement Analysts to adjust workers compensation claims. After two years (their formal training period), these employees expected to be given the opportunity for promotion to 8141 Claims Adjusters, at a higher rate of pay. This expectation was based on statements which, according to the employees, were made by the ERS appointing officer at the time that they were hired. Because many of these employees have worked for the WCD in the capacity of Assistant Retirement

¹ These three classifications are: 1404 Clerk, 1630 Account Clerk, and 1202 Personnel Clerk.

Analyst for more than two years without promotion, employees frequently reported during interviews that they are performing the same duties and responsibilities as 8141 Claims Adjusters at lower pay, and had not been provided with opportunities for promotion which had been represented to them at the time that they were hired.

Hiring and Promotion Practices

The hiring and promotion of skilled employees meeting necessary prerequisites for employment is particularly difficult in the area of workers compensation, since there may be an inadequate number of technical staff available in the labor market to meet the City's hiring needs. In fact, the ERS reported to the Civil Service Commission on June 26, 1993 that, "despite many attempts, the City has never been able to recruit sufficient qualified adjusters."

Civil Service information provided by several other California cities and counties reflects that these jurisdictions have designed a limited number of progressively more responsible workers compensation staff positions, and have developed clear lines of promotion from within the organization. Employees in lower classifications are supervised and trained in workers compensation issues until they meet stated minimum requirements for promotion to higher levels of responsibility. As a result, other cities and counties are able to retain highly skilled technical staff who are trained and promoted from within the organization.

In contrast, our review of hiring and promotion practices at the WCD revealed several incidents of hiring and promotion practices which appeared to have been made arbitrarily, without regard to established criteria for hiring and promotion decisions. Specifically:

- An employee was hired on a provisional basis as an 8141 claims adjuster, even though he lacked the required two years of prior experience in adjusting workers compensation claims.
- Three 1812 Assistant Retirement Analysts who served as claims examiner "trainees" were denied an opportunity to take a Civil Service examination for promotion as 8141 Claims Adjusters after the first two years of their employment. These employees indicate that they were advised by ERS managers that they would qualify for promotion after the initial two year period. The 8141 Claims Adjuster position announcement, which had been continuously open for 15 months, was closed only 15 days before the employees would have had two years of experience. The WCD still has not established standard minimum requirements for the promotion of Class 1812 Assistant Retirement Analysts who serve as claims examiner trainees to the position of 8141 Claims Adjuster.
- The ERS administered a Civil Service examination on December 1, 1992 in violation of Civil Service Commission rules, which require

approval by the Board of Supervisors if Civil Service examinations are administered on a non-competitive basis to a single individual.

- The minimum qualifications for the position of Claims Supervisor were significantly modified in March, 1986, and appear to have been tailored to the experience of a particular individual. The modifications, which included deleting required prior experience as a claims examiner, were approved by the Civil Service Commission approximately three weeks before the candidate submitted an application for the position. The individual in question is reportedly related through marriage to an Employees Retirement System manager who has had responsibility for administering ERS personnel matters.

These incidents have contributed to perceptions of inequity in the WCD's hiring and promotion practices, and to poor morale among employees. Each of these incidents is described in more detail below.

Promotion of an Employee Who Did Not Meet Minimum Qualifications

On August 9, 1991, the Civil Service Commission opened the 8141 Claims Adjuster position on an open, continuous basis. The minimum qualifications required for this position, as stated on the examination announcement, included two years of non-clerical journey level experience.

In January of 1992, a permanent 1812 Assistant Retirement Analyst was promoted to a provisional 8141 Claims Adjuster position. This adjuster was promoted to a provisional 8141 Claims Adjuster position, even though he possessed only 18 months of workers compensation experience, rather than the required two years. According to Civil Service records, at the time of the employee's provisional appointment to Class 8141, the ERS Senior Personnel Analyst verified to the Civil Service Commission that this employee met the minimum qualifications, in accordance with Civil Service regulations for hiring provisional employees. On the basis of this verification, the ERS received oral authorization for the promotion.

When the Civil Service Commission later became aware that this provisional 8141 employee did not meet the minimum requirements, the former Assistant Division Manager, Recruitment and Selection Division of the Civil Service Commission, wrote the following to a representative of the employee's collective bargaining unit:

We were not aware of the specifics surrounding this situation and find it particularly problematic. Further investigation of this matter will be undertaken to ascertain the circumstances under which an individual who does not meet the terms of a current announcement was allowed to be hired on a provisional basis.

This investigation was never conducted. The Civil Service Commission should conduct an investigation of the WCD's promotion of an individual to the position of 8141 Claims Adjuster who apparently did not meet the stated minimum requirements, and take corrective action based on applicable Civil Service Commission rules.

Failing to Clearly Specify the Criteria for Promotion for Claims Examiner Trainees

On November 3, 1992 and November 5, 1992, three 1812 Assistant Retirement Analysts, who were hired in December of 1990, applied for permanent Civil Service 8141 Claims Adjuster positions. They were one month short of meeting the two year experience requirement. (These employees report that their applications for permanent status were made early because the employee noted above was promoted after only 18 months of experience, and because the former Deputy General Manager advised them, at the time of their interviews, that they would be eligible for such a promotion.) Their applications were denied because they did not meet the minimum two-year experience requirement.

These employees have reported that, at the time that they were hired, the ERS appointing officer indicated that they would qualify for promotion after they had acquired two years of experience examining claims. The job announcement for Class 8141 Claims Adjuster which was opened on August 9, 1991 specified that the 8141 position required "two years of non-clerical journey level experience... in managing, reviewing, evaluating, investigating, and processing of workers compensation claims..."

The job announcement for Class 8141 Claims Adjuster applications was closed on November 18, 1992, approximately two weeks after these three employees' applications were denied, and only 15 days before the three employees would have had two years of experience examining workers compensation claims. At the time that it was closed, the job announcement had been continuously open for 15 months.

In a letter to the employees' representative, the former Assistant Division Manager of the Recruitment and Selection Division of the Civil Service Commission stated that the applications of the Assistant Retirement Analysts were denied because they did not possess two years of "journey level experience." The letter further indicates that, "if the [appointing officer] promised that they would be qualified for this examination, he did so with no authority to make such a statement."

However, as recently as October, 1993, the ERS still had not clarified what it considers to be the appropriate minimum experience for claims examiner trainees to qualify for the position of Class 8141 Claims Adjuster, and what level of experience qualifies as "journey level." In the course of this audit, the Senior Personnel Analyst assigned to the ERS stated that, at the time that Assistant Retirement Analysts were recruited as claims examiner trainees, it was expected that 1812 Assistant Retirement Analysts could qualify as Claims Adjusters after two years, but that, based on actual experience with the trainees, the ERS has found that the minimum experience level is "probably more like three years." The personnel officer

stated that the level of experience needed for trainees to qualify for the 8141 Claims Adjuster position is, "still not resolved."

In light of this experience, and in order to ensure that qualified workers compensation claims examiners continue to seek employment with the City and County of San Francisco, the Civil Service Commission should clearly specify the criteria for 1812 Assistant Retirement Analysts to qualify for the 8141 Claims Adjuster position, re-open the position announcement for Class 8141 Claims Adjuster, and administer an examination for this position in accordance with Civil Service Commission rules if a sufficient number of qualified applicants respond to the announcement.

Implementation of Examination in Violation of Civil Service Rules

Following the closure of the Class 8141 announcement on November 18, 1992, a Civil Service examination was administered on December 1, 1992. However, at the time that the examination was administered, only one candidate was available. Civil Service Commission Rule number 9, Section 9A.01 states that an exam must include at least two applicants in order to be considered competitive, unless an exception is granted by the Board of Supervisors.

The Department advises that it intended to comply with Civil Service Commission Rule number 9 when it closed the 8141 job announcement on November 18, 1992. Two individuals were reportedly scheduled to participate in the 8141 written examination at that time. Prior to closing the examination announcement, the Civil Service Commission reviewed the two-person applicant pool and posted the closing notice. After the announcement closed, one qualified individual decided not to participate, and therefore the single candidate who remained was administered the exam. However, Civil Service Commission Rule 9 clearly states that in order for examinations to be administered on a non-competitive basis to a single candidate, prior approval must be obtained from the Civil Service Commission and the Board of Supervisors. Since approval by the Board of Supervisors was not obtained by the ERS prior to administering the exam to a single candidate, the rule was violated.

The Civil Service Commission should review the conditions under which the December 1, 1992 examination for Class 8141 Claims Examiner was administered, and take appropriate corrective action in light of Civil Service Commission Rule 9A.01, which requires that examinations be administered on a competitive basis unless approval for a non-competitive examination is obtained from the Civil Service Commission and the Board of Supervisors.

Modification of Claims Supervisor Minimum Requirements to Delete Previous Claims Examining Experience

In March, 1986, significant revisions were made to the Civil Service announcement for the position of Worker's Compensation Claims Supervisor. The job announcement for this position originally required a college degree and four years of prior experience as a workers compensation claims examiner. As a result of the revisions made in March, 1986, both of these requirements were deleted.

The amended position description for Class 8165 Claims Supervisors, as well as other recommended amendments to WCD classifications, were adopted by the Civil Service Commission on March 10, 1986. On April 4, 1986, a position announcement was opened for the Claims Supervisor position. Among the applicants was an individual who was reportedly related by marriage to an ERS manager, who, in the past, has been responsible for personnel management at the ERS.

The Department advises that the modifications to the job announcement were made as part of a general reorganization of the WCD in 1986. However, based on an analysis of this general reorganization, and the specific modifications to the Claims Supervisor position, it appears that a principal effect of the reorganization was the modification of the Claims Supervisor position, to include requirements which closely correspond to the qualifications of a single individual, who was reportedly related by marriage to an ERS manager². This individual did not possess a college degree or four years examining workers compensation claims at the time that the individual applied for the 8165 Claims Supervisor position, based on the revised minimum requirements.

Among the Claims Supervisors currently employed by the WCD, this individual is the only supervisor who did not possess at least four years of prior experience adjusting workers compensation claims at the time of appointment. The employee's application for the 8165 Claims Supervisor position reflects that the applicant served as a Claims Adjuster for approximately 2.5 years immediately prior to the application; however, the applicant's responses to the supplemental questionnaire attached to the application reflects that the employee's duties were largely administrative during this period. The only other experience adjusting claims which was described by the employee on the application for employment occurred while the employee was classified as a Class 1476 Senior Claims Process Clerk.

Civil Service Commission records reflect that this employee has held a variety of positions at the ERS over the past 10 to 15 years, that promotions were approved on a frequent basis, and that the employee was promoted several times on a non-Civil Service provisional basis. According to the CSC, non-Civil Service provisional appointments can be made informally by City departments when there is no current Civil Service list of eligible candidates.

As a result of:

² The minimum requirements for the position of Claims Supervisor were modified to delete four years of prior experience as a claims adjuster, as noted above, but to include experience in the implementation of management information and administrative systems. The individual's qualifications, under the modified announcement, consisted primarily of establishing management information and payment systems which are currently in use at the WCD, acting as liaison to Saint Francis Memorial Hospital, preparing and revising work procedures, and coordinating staffing needs and special projects for the WCD.

- (1) the apparent modification in 1986 of Claims Supervisor position requirements to conform to the experience of a particular applicant, including the deletion of required prior experience as a claims adjuster;
- (2) the inconsistencies and possible inaccuracies in the application of this individual, compared to Civil Service Commission records;
- (3) the series of promotions, including non-Civil Service provisional appointments, which have been granted to this individual by the ERS; and,
- (4) a reported personal or marital relationship between this employee and an ERS manager who has had responsibility for managing and directing ERS personnel functions,

many WCD employees allege that the ERS has engaged in nepotism. Other WCD supervisors and staff have also partly attributed low morale and poor working conditions within the organization to the "favored" status of this individual.

For these reasons, and in order to provide an objective assessment of the circumstances surrounding the examination, appointment, and promotion of this employee over time, the Civil Service Commission should conduct a thorough analysis of the factual and procedural employment history of this employee, and take any appropriate corrective action in light of any applicable Civil Service Commission rules. We believe that only such a credible investigation by the Civil Service Commission will succeed in dispelling allegations of nepotism and in clarifying the appropriateness or inappropriateness of personnel decisions which were made by ERS managers concerning the individual in question.

Finally, we also believe that the 1986 modifications to the Claims Supervisor position, which deleted a requirement for any prior claims examination experience, were inappropriate regardless of whether they were made on behalf of a single candidate. For this reason, the Civil Service Commission should clarify its criteria for approving modifications of this magnitude to position requirements in highly complex technical, professional, and legal specialty areas, such as workers compensation, and re-establish minimum qualifications for Claims Supervisors which include four years of prior experience in examining workers compensation claims.

In view of the importance of highly trained technical staff to the control of the City's workers compensation costs, the WCD should develop and implement comprehensive personnel policies, including, (1) written performance standards which can be used as a basis for employee performance evaluations; (2) regular performance evaluations which document each employee's performance, provides a reliable basis for promotion decisions, and ensures that managers are accountable for promotion decisions; and (3) internal staff development activities which can facilitate the professional development of technical staff within the organization.

Proposed Employee Benefit Classification Series

Management theory indicates that fewer job classifications with broader responsibilities are advantageous because:

- broader job classifications provide organizations with greater flexibility; and
- broader job classifications improve job satisfaction by giving employees opportunities for growth.

As noted previously, the complexity of workers compensation law and the importance of a highly trained technical staff suggests that particular importance should be placed on internal staff development activities. The development of WCD technical staff from within the organization can alleviate the need for continual recruitment of technical staff in the open labor market, where they are in limited supply. Because of this, and due to the absence of consistent Civil Service classifications for workers compensation technical positions, it is particularly important that the WCD implement a fair and equitable classification system for its employees.

In 1991, the ERS and the Health Service System (HSS) recognized that employees in the two departments perform similar tasks related to administering employee benefits, and that separate positions in the two departments could be reclassified into fewer, broader categories. In October, 1991, ERS staff submitted a *Proposal to Establish a New Employee Benefit Series* to the Civil Service Commission. This report is the result of a classification study conducted by ERS. The report recommends that the Civil Service Commission adopt a new Employee Benefit Series for ERS and HSS that would:

- Identify positions unique in the City for administering employee benefits;
- Standardize functions in the employee benefits area; and
- Consolidate Civil Service classes which are now assigned to three major benefit programs: retirement services, workers compensation, and health services.

According to the reclassification study conducted jointly by the HSS and the ERS, the reorganization would have the following benefits:

- Provide greater lateral and upward mobility to employees in the HSS and ERS;
- Provide employees and management with the opportunity to cross-train in three major benefit programs;
- Provide management with a larger and more diverse pool of candidates; and
- Reduce the City's cost for recruitment and examinations.

These reclassifications would apply to positions in the WCD, the Retirement Services Division of the ERS, and the Health Service System.

The ERS and the HSS submitted the above Employee Benefit Series proposal to the Classification Unit of the Civil Service Commission in October of 1991. The Civil Service Commission has reportedly delayed approving the new series because Proposition L, approved by the voters in November, 1993, has created a new Human Resources Department which will incorporate the Health Service System, and which could also incorporate the WCD upon approval of an enabling ordinance by the Board of Supervisors. As a result, the proposed new series may need to be revised to reflect any expanded responsibilities or altered functions resulting from the reorganization.

Based on a preliminary review of the proposed series, implementation of this series would benefit the City, because it would provide management with greater flexibility and provide employees with increased opportunities for job growth. However, our review of the proposed benefit series reflects that most position descriptions are vague, and specific prerequisites for employment in each classification have not been identified.

As part of the proposed new Employee Benefit Series, the Civil Service Commission should establish minimum requirements for employment in each of the proposed new classifications. The Civil Service Commission should also ensure that the new employee benefit series will provide specific criteria for staff development and promotion within the Workers Compensation Division. Final action on the proposed Employee Benefit Series should be delayed until the proposed classification series can be reviewed and evaluated by the Department of Human Resources Benefits Administrator, whose services we have recommended to administer and coordinate WCD and HSS employee benefit programs within the Department of Human Resources.

Conclusions

The ERS has not managed human resources effectively. Specifically, the Department has: (1) not developed consistent Civil Service classifications for WCD technical staff, thereby creating pay inequities; (2) not specified standard criteria for promotion; (3) not administered performance evaluations to WCD staff, and (4) engaged in arbitrary hiring and promotion practices. As a result, the Department may not be maximizing its resources by filling positions with the most qualified individuals, is unable to attract and retain highly skilled technical staff, and contributes to poor employee morale due to perceived and actual inequities.

Recommendations

The WCD should:

- 2.2-1 Develop and implement comprehensive personnel policies, including written performance standards, regular performance evaluations, and internal staff development activities to enhance the retention and promotion of employees from within the organization;

The Civil Service Commission should:

- 2.2-2 Conduct an investigation of the WCD's promotion of an individual to the position of 8141 Claims Adjuster who apparently did not meet the stated minimum requirements, and take corrective action based on applicable Civil Service Commission rules;
- 2.2-3 Clearly specify the criteria for 1812 Assistant Retirement Analysts to qualify for the 8141 Claims Adjuster position, re-open the position announcement for Class 8141 Claims Adjuster, and administer an examination for this position in accordance with Civil Service Commission rules if a sufficient number of qualified applicants respond to the announcement;
- 2.2-4 Review the conditions under which the December 1, 1992 examination for Class 8141 Claims Adjuster was administered, and take appropriate corrective action in light of Civil Service Commission Rule 9A.01, which requires that examinations be administered on a competitive basis unless approval for a non-competitive examination is obtained from the Civil Service Commission and the Board of Supervisors;
- 2.2-5 Provide an objective assessment of the circumstances surrounding the examination, appointment, and promotion over time of an employee who is reportedly related by marriage to an ERS manager who has had responsibility for managing ERS personnel functions, and take any appropriate corrective action in light of any applicable Civil Service Commission rules;
- 2.2-6 Clarify its criteria for approving modifications to position requirements in highly complex technical, professional, and legal specialty areas, such as workers compensation;
- 2.2-7 Re-establish minimum qualifications for Workers Compensation Claims Supervisors which include four years of prior experience in examining workers compensation claims;
- 2.2-8 Specify appropriate minimum qualifications for employees in each of the classifications proposed to be created in the *Proposal to Establish a New Employee Benefit Series* which was developed by the ERS and HSS;
- 2.2-9 Postpone further action on the *Proposal to Establish a New Employee Benefit Series*, pending a review of the proposed new classification series by the Benefits Administrator in the Department of Human Resources.

Costs/Benefits

There would be no costs associated with implementing these recommendations. Implementation of these recommendations would result in improved management of human resources in the WCD, which would, in turn, result in improved employee morale, improved coordination of claims administration functions, and enhanced opportunities for staff development, promotion, and retention.

Section 2.2: Personnel Administration

SECTION 2.3: TRAINING AND REFERENCE MATERIALS

- WORKERS COMPENSATION DIVISION MANAGERS HAVE NOT PROVIDED TRAINING PROGRAMS AND REFERENCE MATERIALS WHICH ARE ESSENTIAL FOR THE EFFECTIVE ADMINISTRATION OF CLAIMS.
- TRAINING OPPORTUNITIES WHICH HAVE BEEN PROVIDED BY THE DIVISION HAVE BEEN ALLOCATED INAPPROPRIATELY AMONG WCD MANAGERS AND STAFF.
- THE DEPARTMENT SHOULD PROVIDE ADEQUATE TRAINING PROGRAMS, SHOULD ESTABLISH STAFF TRAINING AS A PRIORITY, AND SHOULD PROVIDE ADEQUATE REFERENCE MATERIALS.
- ADEQUATE TRAINING AND REFERENCE MATERIALS FOR WCD STAFF ARE NECESSARY FOR THE EFFECTIVE ADMINISTRATION OF APPROXIMATELY \$38.5 MILLION IN ANNUAL WORKERS COMPENSATION EXPENDITURES.

The State Labor Code requires that its provisions be "liberally construed" for the benefit of injured workers, and the employer must be able to show by a preponderance of the evidence that an injury is not compensable under the Labor Code in order to reject liability for a claim. The judgments and conclusions of claims examiners must be able to withstand these liberal construction and preponderance of evidence tests in order to successfully limit the City's liability for the payment of benefits.

For these reasons, the control of workers compensation costs requires that claims examiners possess a high level of technical skill in all aspects of workers compensation claims administration, including:

- the evaluation of the circumstances of any injury;
- the circumstances under which a claim can be denied;
- the definitions of the "employment relationship" under the law;
- appropriate procedures for the investigation of claims;
- the review of medical records to identify pre-existing or non-industrial medical conditions;
- the appropriate use of diagnostic medical procedures;
- the advisability of securing additional medical opinions;
- the determination of an appropriate level of medical treatment;
- the interpretation of medical reports (including reports from physicians who may have reached widely divergent opinions);
- the application of previous decisions of the Workers Compensation Appeals Board to specific fact situations;

- strategies for negotiations with attorneys;
- the appropriateness of proposed vocational rehabilitation plans;
- the proper estimation of case reserves; and,
- the rating of permanent disabilities.

In addition, significant revisions to workers compensation laws in 1989 and 1993 have increased the complexity associated with administering benefits by establishing deadlines, reporting requirements, statutes of limitations, rates of compensation, eligibility requirements, and conditions for the termination of many benefits which vary considerably according to the date of injury, and according to a claim's procedural history. In order to administer benefits in compliance with the law while minimizing costs, it is necessary that WCD managers and staff have a comprehensive understanding of the many complex legal, medical, administrative, and financial requirements of workers compensation law and procedure.

To further complicate claims administration, reforms which were enacted in August, 1993 by the California Legislature will significantly alter statutory provisions with respect to rates of compensation, vocational rehabilitation benefits, the control of medical treatment by the employer, the use of medical consultants, the compensability of claims based on psychological stress, the use of fee schedules, and other issues.

In view of the complexity of evolving workers compensation laws and procedural requirements, the Budget Analyst regards the professional skill and technical proficiency of workers compensation claims examiners, supervisors, and managers to be the most important factor, apart from accident prevention, in the control of the City's workers compensation costs. However, as discussed below, the WCD:

- Has provided only very cursory training activities to claims adjusters and adjuster "trainees";
- Has allocated limited training opportunities inappropriately; and,
- Lacks basic workers compensation reference materials which are provided to claims examiners in every other city and county workers compensation program which was surveyed by the Budget Analyst.

This section provides information regarding the status of training and reference materials in the WCD.

Training

Survey of San Francisco and Other Jurisdictions

WCD Workers Report that Training Should Be a Priority

In the Budget Analyst's survey of WCD employees, 75 percent of all WCD employees, including 91 percent of claims examiners and 100 percent of WCD supervisors, responded that regular training activities were "essential" for the performance of their duties. The remainder of the employees responded that regular training activities were "somewhat important."

The following table reports the subjects in which ten claims examiners reported that they would like to receive additional training, and the percent of respondents who identified each subject area:

Table 2.2
Percent of Claims Examiners
Requesting Training in Selected Subject Areas

<u>Subject Area</u>	<u>Percent of examiners wishing to receive additional training</u>
Permanent disability ratings	70
Litigation	70
Legislative changes	60
Medical treatment and case management	60
Investigation procedures	40
Vocational rehabilitation	20
Setting claim reserves	20
Every aspect	10

Nine Jurisdictions Report That They Provide Regular Training to Employees

Of the 15 other California cities and counties which responded to the Budget Analyst's survey, six employ the services of third party claim administrators and therefore do not have responsibility for training workers compensation claims examiners. Of the remaining nine jurisdictions:

- Six, or 67 percent, provide organized training programs within the workers compensation unit and also subsidize professional development classes for claims examiners;
- Two indicate only that they provide professional development classes through outside sources; and
- One indicates that it only provides in-house training within the workers compensation unit.

Thus, 100 percent of these nine jurisdictions provide coordinated training activities for their employees, 89 percent utilize formal professional development classes to provide training opportunities for their employees, and 67 percent provide both in-house training and professional development classes on behalf of their employees.

WCD Workers Report that Their Training Has Been Unsatisfactory

Of the eleven claims examiners who responded to the Budget Analyst's employee survey, five reported that they received training at the time that they were hired, and six reported that they did not. Among the five examiners who reported that they received such initial training, three rated the training which was provided as "poor," and two rated it as "fair." In other words, 100 percent of the examiners who report having received training at the time that they were hired rated this training as less than satisfactory.

In addition, six of the eleven examiners who responded to the survey reported that they have received training subsequent to the time they were hired. Of these six examiners, three rated the training which they received as "poor," two rated it as "fair," and one rated it as "satisfactory." In other words, 83.3 percent of the examiners who report having received subsequent training rate this training as less than satisfactory.

Three of the eleven claims examiners who responded to the survey, or 27 percent, reported that they have not received training of any kind. Two of these employees are 8141 Claims Adjusters, while one is a Class 1812 Assistant Retirement Analyst who was hired as a workers compensation adjuster trainee.

Training at San Francisco's WCD

The General Manager of the ERS was asked to provide information concerning the training activities which had been provided at the WCD, including any documents, manuals, or guidelines which had been disseminated in the course of the training to claims examiners. No such written materials were provided. However, the General Manager of the ERS provided a list of professional development classes for WCD employees which had been funded by the WCD in fiscal years 1991-92 and 1992-93. Following is a description of these and other training opportunities available to WCD employees.

In-House Training

Eleven of the WCD's 18 claims examiners are Class 1812 Assistant Retirement Analysts who were hired as claims examiner "trainees." Eight of these trainees were hired from an eligibility list established in 1990. According to the Workers' Compensation Division Manager, these eight trainees received in-house training over a period of six months to one year. The Division Manager reports that a 13-module training program was conducted jointly by a claims supervisor and the former Division Manager. According to the current Division Manager, the topics covered in this training program were:

- Medical terminology;
- Labor Code requirements; and
- Compensability determinations.

The Division Manager also reports that, in addition to the formal training described above which was provided for eight of the claims examiner trainees, most of the WCD's current staff of eleven trainees have attended professional development classes in permanent disability, and that all of the trainees have received informal training in one-to-one sessions with their supervisors.

However, the claims supervisor who was described by the Division Manager as an administrator of the training program provides a different account of the formal in-house training program which was provided to the Assistant Retirement Analysts. This supervisor reports that in 1990 he trained seven or eight Assistant Retirement Analysts (four or five of whom are still employed by the WCD) and that the former Division Manager conducted training for several others. According to this supervisor, he provided approximately 80 hours of formal training, which was provided on a full-time basis for two weeks. The supervisor states that the objective of the training was to give the trainees a "feel" for what they might be able to expect in their positions. After the two week training period, they were to meet with their respective supervisors on a regular basis for informal training.¹

This supervisor recalls that the former Division Manager had his group of trainees simply go through a "training manual." In their survey responses, claims examiners report that the only written reference materials which were provided were photocopies from published procedure manuals. As noted above, no written training materials were provided by the ERS in response to the Budget Analyst's request for documentation of its training activities. According to the supervisor who assisted in the training program, none of the Assistant Retirement Analysts who were trained by the former Division Manager are at the ERS any longer.

To ensure that claims examiners are provided with the information necessary to perform their tasks effectively, individual claims examiners should be evaluated by supervisors to assess training needs on a regular basis. In-house training programs should be provided on a regular basis in response to specific identified needs. The use of comprehensive training programs for all examiners should be implemented in lieu of irregular "one-on-one" training activities, which are not conducted according to any specific standards. The Department should establish a minimum number of in-house training hours to be completed by each employee annually, such as 20 hours.

¹ The examiners have not complained of the supervisor's training ability, but rather of the inadequate investment made by the WCD in training activities.

Such in-house training activities should be developed immediately, in light of recent significant modifications to workers compensation laws and regulations.

Professional Development Seminars

Various workers compensation industry groups offer formal training programs in workers compensation law and procedure. Among these groups are the California Workers Compensation Institute, the Insurance Education Association, and the Industrial Claims Association.

The General Manager of the ERS has provided a list of professional development classes for WCD employees which had been funded by the WCD in fiscal years 1991-92 and 1992-93. This list reflects that the ERS expended a total of \$5,300 over this two year period for training activities on behalf of WCD staff.

The list also shows that, of the \$5,300 total cost of training over two years, \$739 (13.9 percent) was expended for training on behalf of Class 1812 Assistant Retirement Analysts who were acting as adjuster "trainees," \$760 (14.4 percent) was provided to Class 8141 Claims Adjusters, and \$2,848 (53.7 percent) was provided to Claims Supervisors. The remaining \$953 (18 percent) was expended for training activities on behalf of the Office Manager, the Division Manager, and the former Deputy General Manager of the Employees Retirement System. These expenditures are described in the following table:

Table 2.3
WCD Expenditures for Training
by Position Title
FY 1991-93

<u>Position</u>	<u>Amount</u>	<u>Percent of Total</u>
1812 Assistant Retirement Analysts	\$739	13.9%
8141 Claims Adjusters	760	14.4
Claims Supervisors	2,848	53.7
Office Manager, Division Mgr., Deputy General Mgr.	953	18.0
TOTAL	\$5,300	100.0%

As this table indicates, the Department expended substantially more (71.7%) to train supervisors and administrators than it expended for Retirement Analysts and Claims Adjusters (28.3%) who must make daily judgments regarding benefits.

The Budget Analyst questions the allocation of these expenditures among WCD staff, as shown above. Specifically, the Budget Analyst notes the following:

- 53.7 percent of the WCD's training activities were directed toward Claim Supervisors. Assuming that Claims Supervisors are more proficient in workers compensation issues than are claims adjusters and claims adjuster "trainees" the allocation of these amounts for training on behalf of supervisors, rather than claims adjusters was inappropriate, or should at least have been exceeded by the quantity of training resources provided to adjusters.

It may have been the WCD's intention that claim supervisors would disseminate the knowledge they acquired through training programs to individual claims examiners. However, the Budget Analyst notes that seven out of eight examiners (87.5 percent) who responded to a question on the employee survey rated the "quality of consultation and advice" which is provided by the WCD as either "poor," or "fair," and therefore low.

- Although the City relies heavily on the services of eleven 1812 Assistant Retirement Analysts, who were hired as adjuster trainees, to make a wide range of complex benefit determinations, only \$739, or 13.9 percent of total training expenditures, has been allocated to train the adjuster trainees over the last two fiscal years.
- Of the \$1,499 total cost of training activities for claims examiners over the last two years, \$1,020, or 68.1 percent, was provided to only three claims examiners, while only \$479 was allocated over 2 years to train the remaining 15 adjusters.
- A total of \$210 was expended for the former Deputy General Manager of the Employees Retirement System to attend a class in permanent disability ratings, although this individual was not responsible for calculating such ratings. If this training was needed to provide effective oversight by the former Deputy General Manager of the WCD's permanent disability rating procedures, the Budget Analyst questions whether a \$210 training seminar can be an effective substitute for the services of a manager who has gained proficiency in workers compensation claim practices through direct experience over a number of years.
- The WCD Office Manager, who oversees the Central File and Bill Paying Units, was assigned to attend a seminar on "medical provider abuses." The Office Manager reports that this seminar was highly professional and conveyed a wealth of information concerning certain treatment and billing practices of medical providers which could result in fraud. However, the WCD Office Manager is not responsible for adjusting claims, authorizing medical treatment, or approving medical bills, as are claims examiners.

The WCD should establish appropriate priorities for the training of clerical staff, claims adjusters, claim supervisors, and managers. In particular, the training of claims examiners in legal and procedural issues which affect cost control efforts should be established as a priority.

It is possible that such training might be achieved most cost-effectively by providing training through professional development seminars to Claims Supervisors, and conducting in-house training for line staff shortly thereafter. In that case, the Department should establish a policy of scheduling in-house training within two weeks after Claims Supervisors attend training. No such policy exists in the WCD. Finally, training for administrative staff (specifically, the Office Manager, the Division Manager, and the Deputy General Manager) should be established as a lower priority.

Insurance Educational Association and the Industrial Claims Association Seminars

Among the eight jurisdictions which provide professional development classes, seven specifically mention the training programs offered by the Insurance Educational Association (IEA). The IEA is a non-profit agency which describes itself as an "industry association dedicated to serving the educational needs of the western insurance community. Classes, seminars, and workshops are held throughout California in a wide variety of technical and non-technical subjects."

The IEA offers two certification programs. The first is a basic, five course Certification Program, "designed for individuals serving as, or in training to become, claims technicians responsible for the disposition of workers' compensation claims." The classes include courses on compensability, case law, medical coordination of claims, permanent disability rating, and rehabilitation. Once this certification is obtained, workers' compensation specialists may enroll in three additional classes to obtain a Workers' Compensation Claims Professional (WCCP) designation. The three additional classes include such topics as advanced permanent disability ratings, the Labor Code, and advanced workers compensation issues.

In 1991-92 and 1992-93, the WCD enrolled two claims examiners in a total of four IEA classes at a total cost of \$685, and enrolled four claims supervisors and the former Deputy General Manager of the Employee Retirement System in a total of six IEA classes at a total cost of \$845.

Were the WCD to enroll all 18 of the City's current claims examiners in the IEA's basic five-part certification program, the total cost to the City would be \$17,280. Were the WCD only to enroll the twelve Class 1812 Assistant Retirement Analysts, who are characterized as "trainees," in the IEA's basic credential program, the total cost to the City would be \$11,520.

The Industrial Claims Association is a non-profit agency which describes its purpose as "developing close relationships among those engaged in handling workers compensation claims... and to educate its members." The ERS 1993-94 budget includes \$500 to provide for ERS membership in this organization. The ICA offers a basic credential program consisting of five separate classes including an overview of workers compensation benefits, medical claims management, permanent disability, vocational rehabilitation, and litigation

preparation and resolution. These topics closely correspond to the areas in which ten examiners indicated that they wished to receive additional training, and which they characterized as "essential" to the performance of their duties, as discussed above. The cost of the five-part training program is \$500 per participant to members of ICA.

In 1991-92 and 1992-93, the WCD enrolled seven individual claims examiners in a total of nine ICA classes, at a total cost of \$695. Over the same period, the WCD enrolled four individual claims supervisors in ten ICA classes, at a total cost of \$470, and expended \$123 for ICA luncheon meetings which were attended by claims supervisors as part of the WCD's training activities.

If the WCD were to enroll all 18 claims examiners in the ICA's five-part program, the total cost to the City would be \$9,000. Were the WCD only to enroll the twelve Class 1812 Assistant Retirement Analysts, who are characterized as "trainees," in the ICA's basic credential program, the total cost to the City would be \$6,000.

More advanced IEA and ICA seminars than the basic workers compensation certification programs offered by either agency could be expected to cost the City somewhat more than these amounts for professional development classes designed to enhance the technical skills of claims examiners and others who administer approximately \$38.5 million in City funds on an annual basis.

The total cost of providing adequate IEA and ICA seminars is enumerated in the following table:

Table 2.4
Total Cost of Providing IEA and ICA Seminars
to All WCD Employees and Trainees Only

<u>Course Name</u>	<u># of Trainees</u>	<u>Total Cost for Trainees Only</u>	<u>Total # of Employees</u>	<u>Total Cost for All Employees</u>
IEA Basic 5-Part Certification	12	\$11,520	18	\$17,280
ICA Basic 5-Part Credential	12	6,000	18	9,000
TOTAL COST		\$17,520		\$26,280

As this table indicates, the total cost for training all WCD personnel would be \$26,280. This \$26,280 expenditure is small (less than a tenth of one percent), relative to the \$38.5 million in City funds these employees administer annually. In fact, it is likely that these employees would acquire information through training that would allow them to save the City substantially more than the cost of training.

The ERS should request \$26,280 in training funds to be expended for IEA and ICA seminars for all employees in FY 1994-95. Alternatively, the Department

could request funds to train only those employees designated as trainees, at a cost of \$17,520. However, the Budget Analyst believes that it is essential that all claims examiners receive comprehensive training. The Mayor and the Board of Supervisors should approve this budget request.

Reference Materials

In the absence of comprehensive training activities and adequate advice and consultation from claims supervisors, claims examiners may be expected to rely on published reference materials for guidance concerning highly technical legal and procedural workers compensation issues. However, the Workers Compensation Division has not made such reference materials available to its employees. In the Budget Analyst's employee survey, 87.5 percent of claims examiners characterized as "poor," or "fair," the availability of reference materials which, in the examiners' opinions, "are needed for the effective examination of claims."

Survey Responses

Among 15 other California cities and counties which responded to the Budget Analyst's survey, 14 provided information concerning reference materials which are available to claims examiners. The following table reports the number of these 14 other jurisdictions which report that they provide examiners with the reference materials shown below:

Table 2.5
Number of Surveyed Jurisdictions Providing
Standard Reference Materials to Claims Examiners

<u>Reference</u>	<u>Number of jurisdictions</u>
California Labor Code	14
Official Medical Fee Schedule	14
Permanent Disability Rating Schedule	14
Claim Procedure Manual, by S. Herlick	13
Claim Procedure Manual, by G. Hampton	12
Physician's Desk Reference (pharmaceuticals)	13
Medical Dictionary	13
Merck Manual (medical encyclopedia)	13
Internal claims procedure manual	10

Of these reference materials, only the Labor Code and the permanent disability rating schedule are reported as widely available among WCD claims examiners.

As shown above, 13 of the 14 other jurisdictions (93 percent) provide either or both of two published claims procedure manuals (Herlick and Hampton). Seven of these 13 jurisdictions provide copies to each claims examiner. However, at the Workers Compensation Division, only five of nine claims examiners who were surveyed reported having access to a copy of one or both of these materials, either at their desk or in a reference area. However, in most cases these examiners reported that they had provided their own copies.

All 14 other jurisdictions have provided most or all claims examiners with the Official Medical Fee Schedule, which governs the medical fees which may be charged in workers compensation claims. However, only one of the WCD adjusters reported having access to the fee schedule; this examiner stated that the fee schedule is available in a reference area. However, none of the other examiners were aware of the availability of the fee schedule at the WCD.

It is noteworthy that, in the course of interviews with claims examiners, most examiners reported that the medical bills which they review often lack written descriptions of medical services which are provided, and instead report only the procedure codes for each service. However, the examiners are generally unfamiliar with the procedure codes which are used in the Official Medical Fee Schedule to categorize different types of medical services and to report the allowable fees for each medical procedure. In view of the adjusters' lack of familiarity with procedure codes used to describe medical services, one examiner stated that it would be "nice to have a book or something" which outlined the procedure codes.²

Thirteen of the other jurisdictions also provide medical references, including the Merck Manual, the Physician's Desk Reference, and a medical dictionary. Of the nine WCD examiners reporting in the Budget Analyst's survey, one examiner reports having his or her own copy of the Merck Manual, two report having access to a copy of the Physicians Desk Reference in a shared reference area, and five report having access to a medical dictionary, including two who have their own personal copies. Thus, the majority of the examiners at the WCD report that they do not have access to medical reference materials which are available in other jurisdictions to guide the provision of medical services.

² The Official Medical Fee Schedule is available at \$10.50 per copy from the California Workers Compensation Institute, 120 Montgomery Street, San Francisco, CA.

Based on the responses of the jurisdictions we surveyed, we recommend that the WCD make the following additional resources available to WCD staff:

**Table 2.6
Estimated Cost of Standard Reference Materials**

<u>Reference</u>	Approximate Cost per Unit
Workers Compensation Laws of California	\$41.50
Official Medical Fee Schedule	10.50
Claim Procedure Manual, by S. Herlick	48.00
Claim Procedure Manual, by G. Hampton	35.50
Physician's Desk Reference (pharmaceuticals)	57.95
Medical Dictionary	49.95
Merck Manual (medical encyclopedia)	<u>29.95</u>
Total	\$273.35

The Division should acquire at least two copies of all of these references. The Division should create a central area where all employees have access to the materials. The total, one-time cost of acquiring two copies of these references is estimated to be \$546.70. Manual updates may be required in future years.

Conclusions

The Workers Compensation Division has not provided the necessary training opportunities and reference materials which are essential to an effective workers compensation program. Some training opportunities provided by the Division have been allocated inappropriately among WCD, with most provided to supervisors and administrators, rather than to claims examiners. Surveyed jurisdictions provide substantially more training and reference materials to their employees than San Francisco's WCD.

Recommendations

The WCD should:

- 2.3-1 Evaluate the training needs of individual claims examiners on a regular basis, and provide training programs in response to specific identified needs;
- 2.3-2 Implement comprehensive training programs for all WCD staff in lieu of irregular "one-on-one" training activities;

- 2.3-3 Provide at least 20 hours per year per employee of regular in-house training. Such in-house training activities should be developed immediately, in light of significant recent changes in State workers compensation laws;
- 2.3-4 Establish appropriate priorities for the training of clerical staff, claims examiners, claim supervisors, and managers, with particular attention to the training of claims examiners in legal and procedural issues which affect cost control efforts;
- 2.3-5 If training is achieved most cost effectively by training Claims Supervisors, and conducting in-house training for line staff shortly thereafter, establish a policy of scheduling in-house training within two weeks of training courses by Claims Supervisors;
- 2.3-6 Request \$26,280 in training funds to be expended for IEA and ICA seminars for all claims examiners in FY 1994-95.
- 2.3-7 Request \$547 to procure additional reference materials, as outlined in this report.

The Board of Supervisors should:

- 2.3-7 Approve Department requests for \$26,280 for training and \$547 for reference materials.

Costs/Benefits

The costs of implementing these recommendations would total \$26,827 in the first year in order to allow claims examiners to attend a 5-class certification program in workers compensation law and procedure, and to obtain necessary reference materials. These costs could increase or decrease after the first year, depending on the WCD's training needs at that time.

The benefits of these expenditures would be the more effective management and control by claims examiners of \$38.5 million in annual workers compensation costs.

SECTION 3: ADMINISTRATION OF WORKERS COMPENSATION BENEFITS

Introduction

Workers compensation is characterized by a wide range of legal provisions, medical issues, and factual determinations which together determine an employee's eligibility to receive specific benefits. The quality of claim administration practices have significant impacts on the City's total workers compensation costs. In this section, we assess the performance of the WCD in accepting or rejecting liability for new workers compensation claims, and controlling costs within each major workers compensation benefit category.

Our review of claims administration practices indicates that the WCD has not implemented basic standards, procedures, and quality control efforts which are needed for effective claims administration. WCD managers have attributed these deficiencies to the City's escalating caseloads. However, high caseloads point to a need for more aggressive management of the City's workers compensation program, rather than the neglect of standard operating procedures that we have observed.

To conduct our evaluation of WCD claims administration practices, we (1) obtained information from claims examiners and supervisors who are knowledgeable in the requirements of California workers compensation law; (2) analyzed the internal operating procedures and structures through which benefits are administered; and, (3) examined summary claims information for a random sample of 100 claims which were active in November, 1992, and for a separate random sample of 100 new claims which were opened in 1992-93.

Estimated Cost Savings

We have not conducted a detailed analysis of individual claims in order to determine whether specific benefits were provided appropriately. This would have required hundreds of additional audit hours to perform a detailed analysis of factual issues, procedural matters, and medical opinions. For this reason, it is not possible to quantify precisely the amount of savings which the City would realize through improved WCD claims administration practices. However, available evidence suggests that significant cost reductions can be achieved through enhanced claims administration practices. For instance:

- As noted at page 10 of the Introduction to this report, the WCD's benefit expenditures for new claims in 1991-92 were an estimated \$9.9 million higher than would be expected based on the average experience of 15 other California cities and counties, with regard to the number of new claims and the average cost of claims, among new claims filed in 1991-92.
- The Golden Gate Bridge, Highway, and Transportation District reduced its overall workers compensation costs by more than 20 percent over a nine-month period during 1988. District managers directly attributed this cost reduction to:

- (1) More thorough investigation of new claims;
- (2) Requiring up-to-date medical reports before renewing disability leave;
- (3) Careful monitoring of rehabilitation programs by claims examiners;
- (4) Requiring physicians to demonstrate that prescribed medical treatment is reasonably required for the injury;
- (5) Requiring pre-approval of medical treatment by claims examiners;
- (6) Increasing the number of claims examiners to enhance oversight; and,
- (7) Creating safety committees of labor and management representatives.

- The Noetics Group has observed that even a small reduction in the period of temporary disability can result in substantial savings for temporary disability benefits. At the current weekly temporary disability compensation rate of \$336, a reduction of one week in the period of temporary disability for each claimant can save \$336,000 for each 1,000 claimants. The WCD estimates that approximately 4,900 new temporary disability claims are filed with the WCD each year.¹ Thus, a reduction of one week in the period of authorized disability for each of these new claimants would result in savings of approximately \$1.7 million annually.
- Our review of WCD expenditures for physical therapy services alone reflects that the WCD could have saved between \$1.4 million and \$3.0 million in 1991-92 by monitoring these services to prevent excessive levels of treatment (as discussed in Section 3.3). Savings from more effective control over other medical services would be in addition to these savings for physical therapy services.

As discussed in the following sections, a reduction of 10 percent in the City's total workers compensation costs would result in annual savings of approximately \$3.9 million. A 20 percent reduction, comparable to that achieved by the Golden Gate Bridge, Highway, and Transportation District (GGBHTD), would entail savings of twice this amount, or \$7.8 million. Given the experience of the GGBHTD, a 20 percent cost reduction should be anticipated if the recommendations we have made below are fully implemented. Our more conservative 10 percent estimate represents a reasonable minimum estimate of the savings which the WCD should achieve through more effective claims administration practices. Some of these savings for benefit expenditures may already be accruing to the City as the result of more effective claims administration practices resulting from the addition of a third party claims administrator during 1993-94.

This section of our report includes the following subsections:

- Section 3.1: Determining Liability for Workers Compensation Claims**
- Section 3.2: Temporary Disability Benefits**
- Section 3.3: Control of Medical Treatment**
- Section 3.4: Permanent Disability Benefits, and**
- Section 3.5: Vocational Rehabilitation Services.**

¹ In our sample of 100 new claims which were filed in 1992-93, the average period of disability leave was approximately 32 days.

SECTION 3.1: DETERMINING LIABILITY FOR WORKERS COMPENSATION CLAIMS

- THE WCD COULD DENY LIABILITY FOR A LARGER NUMBER OF WORKERS COMPENSATION CLAIMS. HOWEVER, THE WCD HAS NOT DEVELOPED GUIDELINES FOR DETERMINING WHETHER THE CITY SHOULD ACCEPT FINANCIAL LIABILITY FOR NEW CLAIMS.
- BECAUSE IT HAS NOT INVESTIGATED CLAIMS IN ORDER TO DETERMINE THE CITY'S LIABILITY, CLAIMS EXAMINERS STATE THAT THE WCD INCURS BENEFIT COSTS FOR INJURIES WHICH ARE NOT THE LIABILITY OF THE CITY.
- THE WCD SHOULD ESTABLISH FORMAL GUIDELINES FOR INVESTIGATING CLAIMS, IN ORDER TO REJECT LIABILITY FOR CLAIMS WHICH SHOULD NOT BE COMPENSATED BY THE CITY.

The WCD lacks necessary procedural guidelines concerning the most basic issue in determining an employee's eligibility for workers compensation benefits: is the claim a financial liability of the City? The determination that a claim is a City liability depends on whether the injury is "industrial," meaning that it resulted from the claimant's employment relationship with the City. The City should not accept financial liability for a workers compensation claim until a factual determination has been made by claims examiners that the injury resulted from the employment relationship and is therefore the City's liability under the State workers compensation laws. This is a primary duty of the Workers Compensation Division in examining claims.

- Section 3600 of the Labor Code assigns liability for payment of workers compensation benefits to the employer for any injury "arising out of" and "in the course of" employment. These conditions substantially control the City's liability for providing workers compensation benefits. The Labor Code also outlines several "affirmative defenses" which, if found to exist, negate the City's requirement to pay benefits for work-related injuries. The affirmative defenses include the use of drugs or alcohol by the employee, intentionally self-inflicted injuries, injuries sustained by a person who is "an initial physical aggressor," or injuries resulting from a felonious act for which the employee is convicted.

Therefore, the City's first defense against workers compensation costs after an injury has occurred is to determine:

- (1) Whether the injury "arose out of" or "in the course of" the worker's employment; and,
- (2) Whether the City can reject liability based on an "affirmative defense," as specified in the Labor Code.

Claims examiners cannot make an accurate determination of whether the City should accept financial liability for new claims unless they consult with City departments, the injured worker, the employee's supervisor, and the treating physician. However, WCD claims examiners report that they have insufficient communication with these parties to investigate claims effectively. Moreover, the WCD has not developed established procedures for the determination of the City's financial liability by claims examiners.

The fundamental importance of having claims examiners make a determination regarding the City's financial liability is clearly demonstrated by the survey responses of claims examiners. Of eleven claims examiners who responded to the Budget Analyst's survey:

- Eight responded that additional claims could be denied;
- One responded that additional claims could not be denied; and
- Two did not respond.

All of the eight examiners who believed additional claims could be denied stated that such additional denials would depend on adequate policies and procedures to investigate claims. They observed:

- Some injuries appear unrelated to specific job-related duties of the employee. (An example was given of firefighters who are injured playing basketball.)
- Claims examiners who have not received adequate training in the criteria for denying claims are, "afraid to make a decision" to deny a claim.
- Claims could be denied based on pre-existing conditions which did not "arise out of" or "in the course of employment," and the costs of treatment should be apportioned to pre-existing conditions by evaluating the employee's prior medical records. Some non-compensable claims are being paid because of "lack of timely denials, lack of medical support, no investigations, and late reporting."
- Non-industrial medical conditions which are aggravated by employment should be evaluated more carefully. The examiner notes that, "doctors don't often take a hard line."
- Claims should not be approved when there is "unsupported evidence or fraud." Some non-compensable claims are being paid by the WCD because there is "insufficient time to investigate the injury properly."
- More claims could be denied if adequate time and resources were allocated to "proper initial claim investigation."
- "If investigated properly, more claims could be denied... If we don't have proper facts to deny a claim, we must accept it."

- "We should have more time to investigate the cases more thoroughly."

The opinions of WCD claims examiners are confirmed by an opinion expressed by managers of the Noetics Group, the City's third party claims examiner, who reported that, "virtually every successful denial of a claim resulting in no benefits is due to an affirmative defense or a lack of employment or coverage." This comment further supports the need for effective claims investigation procedures to determine (1) that the injury arose out of or in the course of employment, and (2) that the injury was not caused by behavior on the part of the employee, such as physical aggression or substance abuse, which provides an "affirmative defense" against liability.

In order to ensure that the City compensates only those injuries which are compensable under the workers compensation laws, the WCD should:

- (1) Provide specific guidance and direction to claims examiners concerning the circumstances under which claims can be denied;
- (2) Establish consistent policies and procedures for the investigation of the circumstances of each reported injury; and
- (3) Assist department representatives in understanding and interpreting workers compensation laws so that they can participate in claim investigations.

Conclusions

The determination that a workers compensation claim should be compensated by the City is a primary function of the WCD. However, the WCD lacks necessary guidelines for determining whether to accept or deny workers compensation claims. In our survey of claims examiners, 73 percent reported that more claims could be denied if the WCD were to investigate claims more thoroughly.

Recommendations

The WCD should:

- 3.1-1 Provide specific guidance and direction to claims examiners concerning the circumstances under which claims can be denied.
- 3.1-2 Establish comprehensive policies and procedures for the investigation of each reported injury by claim examiners, and provide training in workers compensation issues to department representatives to facilitate liability determinations.

Costs/Benefits

There would be no costs associated with these recommendations. Savings of an indeterminate amount would result from developing standard procedures to investigate new claims in order to determine whether the City should accept liability.

SECTION 3.2: TEMPORARY DISABILITY BENEFITS

- TEMPORARY DISABILITY BENEFITS ARE PAID TO INJURED WORKERS BASED ON DISABILITY DETERMINATIONS WHICH ARE MADE BY TREATING PHYSICIANS. HOWEVER, PHYSICIANS MAY APPROVE DISABILITY LEAVE MORE OFTEN THAN IS NECESSARY.
- IN ORDER TO REDUCE THE CITY'S COSTS FOR TEMPORARY DISABILITY BENEFITS, THE WCD SHOULD:
 - (A) PROVIDE PHYSICIANS WITH SPECIFIC INFORMATION CONCERNING JOB REQUIREMENTS, SO THAT THE PHYSICIAN CAN MAKE AN INFORMED APPRAISAL OF THE EMPLOYEE'S ABILITY TO RETURN TO WORK;
 - (B) MONITOR THE PERFORMANCE OF PHYSICIANS IN DETERMINING THAT AN INJURED EMPLOYEE IS TEMPORARILY DISABLED AND UNABLE TO RETURN TO WORK; AND,
 - (C) ASSIGN RESPONSIBILITY TO THE QUALIFIED REHABILITATION REPRESENTATIVE TO DESIGN A MODIFIED DUTY PROGRAM FOR CITY WORKERS, WHICH WILL ENABLE EMPLOYEES TO RETURN TO WORK WITHIN ANY APPLICABLE MEDICAL RESTRICTIONS.
- IMPLEMENTATION OF THESE RECOMMENDATIONS WILL RESULT IN ESTIMATED REDUCTIONS IN TEMPORARY DISABILITY BENEFITS OF \$1.8 TO \$4.2 MILLION ANNUALLY.

Compensation for lost wages ("indemnity") is paid to any worker who is temporarily disabled as a result of a work-related injury.¹ The WCD expended approximately \$18 million in 1992-93 for temporary disability benefits.

The evaluation of disability must be made by a physician, since the employee's ability to perform the physical requirements of his position depends on his medical condition following a work-related injury. This section addresses strategies which the WCD should employ to (1) ensure that disability determinations made by physicians are based on complete information; and (2) provide employment opportunities for City workers which incorporate the medical restrictions imposed by physicians.

¹ The current compensation rate is \$336 per week for most workers. Under the State Labor Code and the City Charter, public safety officers receive full salary in lieu of temporary disability indemnity. Except for an initial three-day waiting period, the City is required to pay temporary disability indemnity for as long as an employee is unable to work.

Introduction

An employee's disability status is a medical determination, which is made by the treating physician. This is because only the physician is qualified to make a medical diagnosis regarding the employee's medical condition.

Once a medical determination is made that a City employee is disabled, the payment of temporary disability indemnity can be denied or discontinued only on the basis of one or more of the following circumstances:

- (1) The disability is not the result of an industrial injury;
- (2) The employee does not have a loss of earnings;
- (3) The employee refuses available employment and earnings;
- (4) The employee is not medically disabled;
- (5) The employee unreasonably refuses medical treatment or examinations;
- (6) The disability is permanent, so that no further significant improvement is anticipated by the treating physician.
- (7) The employee dies.²

As discussed in detail in Section 3.1, the determination of whether a disabling injury is "industrial," (item 1 above), is the responsibility of claims examiners, and affects whether the City will accept or deny liability for the claim. Even if the claim is accepted, compensation is not payable if the employee does not experience a loss of wages (item 2), if the employee refuses to undergo medical evaluation (item 5), at the point when a permanent, rather than temporary, disability has been diagnosed by the physician (item 6), or if the employee dies (item 7).

The following discussion in this section focuses on the two conditions which require the most careful attention by claims examiners and workers compensation managers to reduce the City's costs for temporary disability benefits. These conditions (items 3 and 4, above), are:

- The employee is not "medically disabled," and,
- The employee refuses available employment and earnings.

² Hampton, Gwen. *Workers Compensation Claims Desk Book*: The Workers Compensation Company, Glendale, CA; 1992

Determination that an employee is "medically disabled"

The disability status of an employee is determined by the treating physician, since "disability" refers to whether or not the employee is physically capable of performing his or her job duties following an injury. The employee's ability to return to work is therefore a medical determination which must be made by a treating physician. Therefore, it is the physician's opinion of an employee's ability to return to work which determines the amount of temporary disability benefits which must be paid by the employer.

The WCD has not implemented formal procedures to monitor disability determinations which are made by treating physicians. However, careful monitoring of disability determinations is needed because:

- The physician may rely on the employee's "subjective complaints," rather than "objective medical evidence," to determine whether the employee can return to work.³
- In order to avoid incurring professional liability themselves, physicians may prefer to grant disability leave rather than to make a potentially erroneous decision to return the employee to work, where the injury could be aggravated.
- A physician may authorize disability leave in order to extend medical treatment for a longer period, in order to profit financially.

A number of claims examiners at the WCD have stated that physicians at the Franciscan Treatment Room of Saint Francis Memorial Hospital are too lenient in finding that injured City workers are unable to return to work, and believe that disability determinations should be monitored more closely. We have found that, in a number of other jurisdictions, the disability decisions made by physicians are evaluated in terms of (1) the objective medical evidence concerning the nature of the injury and (2) the level of medical improvement over time. If the period of disability seems unreasonable in light of this evidence, a second medical opinion can be obtained.

The WCD should monitor the disability determinations which are made by individual physicians carefully. To evaluate physicians' performance in granting disability, the WCD should monitor:

- (1) the percentage of injured workers seen by SFMH (and by other preferred providers) who are found to be temporarily disabled. If any medical provider authorizes disability with exceptional frequency, the WCD should investigate and perhaps refer claimants to other providers.

³ A physician is required to report to the WCD concerning the subjective (reported and observed) evidence of an injury, and the objective evidence, such as the results of x-rays or other diagnostic procedures.

- (2) the quality of the medical evidence which is provided to support disability determinations which are questioned by claims examiners. If the medical evidence appears not to support the disability determination, the WCD may choose to obtain a second medical opinion.
- (3) the level of improvement after disability has been authorized for an extended period. If the employee's progress is not satisfactory, the WCD could obtain a second opinion, or a finding of permanent disability may be warranted, and appropriate action taken to resolve the claim on that basis.

These quality control procedures are needed in order to ensure that disability determinations are based on appropriate medical evidence, and are not made on the basis of employee's subjective complaints, the uncertainty of physicians whether a return to work is advisable, and the financial incentives of physicians to extend the period of medical treatment.

To make an appropriate determination of disability, the physician should receive specific information concerning the employee's job duties. In the absence of detailed information concerning the job duties, the physician cannot fully evaluate whether or not the employee is capable of performing at least some of the required job duties. Thus, the existence of an injury may result in the physicians' approval of disability leave, whereas the employee may in fact be able to return to work in a limited capacity.

By providing specific information concerning position requirements, the City can ensure that disability determinations are based on factual information concerning the employee's job duties, and can also employ modified duty programs to provide alternative employment during a period of temporary disability (as discussed below).

The specific procedure which should be followed to allow a physician to determine the extent of an employee's work-related disability is as follows:

- (1) The employer should describe the functional requirements of the position to the treating physician;
- (2) The physician should evaluate the ability of the employee to perform the stated job requirements based on the employee's medical condition;
- (3) The physician should evaluate the job requirements and authorize (a) return to work, (b) full disability leave, or (c) appropriate work restrictions, based on the nature and extent of the injury;
- (4) If work restrictions are imposed, the employer may choose to modify the position requirements, in order to enable the employee to return to work in a limited capacity.

Without detailed job information, a physician (1) will not have adequate information to assess the employee's ability to return to work, (2) will not be apprised of modified duty alternatives to full disability leave, and (3) may prefer to grant disability leave in order to avoid the risk of further injury.

The WCD has not developed procedures or guidelines for use by physicians in determining an employee's ability to perform the duties of his position. The WCD should provide physicians with specific information concerning job requirements, so that the treating physician can make an informed appraisal of the employee's ability to return to work.

The need to provide such information in order to facilitate a modified duty program for injured employees is discussed below.

Refusal of available employment and earnings

An employer is not responsible to compensate an employee for lost wages if the lost wages result from a refusal to accept available employment, rather than the disabling effects of the injury. Therefore, one way to reduce temporary disability benefits is to make alternative employment available to the employee, which takes into account any medical restrictions which are imposed by the treating physician.

It is for this reason that modified duty programs are regarded as a significant strategy for controlling workers compensation costs. Modified duty has been defined as, "any change in duties, hours, or expectations of the job."⁴ The City's Workers Compensation Task Force defines modified duty as, "assignments where a temporarily disabled employee may perform work outside his or her normal duties, as well as the flexibility to adapt the employee's work schedule to accommodate the employee's medical restrictions."

A modified duty position can limit the City's loss of employee productivity, by having the employee perform limited services, rather than none at all. Moreover, if the employee chooses to reject a modified duty assignment which is offered by the City, the City can deny payment of temporary disability benefits, since the employee is deemed to have experienced a voluntary reduction in earnings. In such a case, the amount of any temporary disability benefits may be reduced by the amount of any earnings which the employee has chosen not to accept.

In addition to minimizing the loss of employee productivity resulting from work-related injuries after an injury is reported, modified duty programs can also significantly reduce employee incentives to file new workers compensation claims. An employee faces different incentives to file a claim when she expects to perform services in a modified duty capacity, rather than to receive paid time off from work. One study has shown that the implementation of a modified duty program in a hospital setting not only reduced the employer's average costs for workers

⁴ Gice, J. and Tompkins, K.: "Cutting Costs with Return to Work Programs." *Journal of Risk Management*; April, 1988.

compensation claims which were filed, but also reduced the incidence of new workers compensation claims by almost 50 percent.⁵ This indicates that employees are less likely to file workers compensation claims if they expect to be assigned to modified duty positions, rather than to receive compensated disability leave.

Modified duty programs are based on the following components:

- (1) A **job analysis** of the employee's usual position, which outlines the physical demands (or "functional requirements") of the position;
- (2) A **functional capacities analysis**, performed by the treating physician, which evaluates the employee's ability to perform each of the functional requirements stated in the job analysis; and,
- (3) **Job modification**, which involves appropriate limits on the duties, hours, or other working conditions to conform the position to applicable medical restrictions.

The Administrative Code currently requires City departments to "identify and utilize limited or modified duty assignments whenever practical for workers with disabilities." Although a modified duty program requires the participation of many departments, it should be the WCD's responsibility to direct the development and implementation of modified duty programs which have the potential to significantly reduce the City's workers compensation costs. However, the WCD has not taken an active role in coordinating return to work programs.

In the absence of policy initiatives by the WCD, the Workers Compensation Task Force has previously recommended that:

- (1) The Mayor's Office mandate that every department adopt a modified duty program;
- (2) Each City department designate a Modified Duty Coordinator to identify modified duty assignments and communicate the availability of such assignments to WCD staff;
- (3) The WCD encourage treating physicians to specify the medical restrictions which apply to each injury, and release injured workers to modified duty assignments within these medical restrictions; and,
- (4) The WCD either (a) designate a single Modified Work Coordinator, or (b) instruct all claims examiners to coordinate the placement of injured workers in available modified duty assignments.

⁵ *Ibid.*

The Civil Service Commission has proposed a new Civil Service rule (Rule 35) to require City departments to designate appropriate light positions or "limited duty projects" for the temporary assignment of employees. These assignments are proposed to be reviewed by the Civil Service Commission and forwarded to the Employees Retirement System. According to the proposed rule, "it shall be the duty of the ERS to identify employees with work-related disabilities who may be considered for temporary assignment for limited duty." The proposed Civil Service Commission rule for light duty assignments has not been approved by the Civil Service Commission, and is subject to meet and confer proceedings with employee organizations before it can be adopted.

The implementation of a coordinated modified duty program will require specific action by the WCD to:

- (1) monitor the disability status of workers compensation claimants, and identify cases in which the employee shows significant potential to return to work in a modified duty capacity;
- (2) communicate with departments concerning the availability of specific modified duty assignments;
- (3) provide information to treating physicians regarding the physical requirements of modified duty assignments;
- (4) obtain information from treating physicians concerning the medical restrictions which have been imposed as a result of the injury; and,
- (5) deny temporary disability compensation to employees who refuse to accept available modified duty assignments.

Some of these responsibilities are substantially similar to the duties which are currently performed by the WCD's Qualified Rehabilitation Representative (QRR), who coordinates the provision of State-mandated vocational rehabilitation benefits.⁶ A modified duty program and State-mandated vocational rehabilitation services have the following elements in common:

- Assessing the physical and functional requirements of the employee's usual occupation (performed by the City);
- Evaluating the employee's disability status and ability to return to his usual and customary duties (performed by the physician);
- Comparing any medical restrictions with the job requirements, to determine whether the employee can perform required job duties (performed by the City); and,

⁶ The QRR is responsible to provide vocational rehabilitation services to any employee whose injury, "permanently preclude[s], or is likely to preclude the employee from engaging in his or her usual and customary occupation or the position in which he or she was engaged at the time of injury." [California Code of Regulations Section 10003(c)(1)]. Thus the only distinction between providing State-mandated vocational rehabilitation benefits and instituting a modified duty program is whether it is a permanent or temporary disability which prevents the employee from returning to his or her usual employment. In either case, the procedures which are needed to evaluate the disability and return the employee to work are identical. A QRR is defined in the regulations as, "a person ... whose experience and regular duties involve the evaluation, counseling, and placement of industrially injured workers."

- Placing the employee in a position which conforms to any applicable medical restrictions (performed by the City).

As shown above, the procedures for implementing modified duty assignments and providing vocational rehabilitation benefits are essentially identical. In fact, use of modified duty assignments can satisfy the City's obligations to provide vocational rehabilitation benefits which are required to return the employee to "suitable gainful employment."

Therefore, the WCD should assign responsibility for developing and administering a modified duty program to the WCD Qualified Rehabilitation Representative (QRR). The WCD currently obtains QRR services from an independent contractor. In Section 6, we recommend that the QRR become a Civil Service position, at a cost savings to the City.

Based on previous recommendations made by the Workers Compensation Task Force, the QRR should prepare and submit specific recommendations to the Mayor, the Civil Service Commission, and the Workers Compensation Task Force for the administration of a modified duty program for workers who are temporarily disabled. These recommendations should include an analysis of the Civil Service Commission's proposed Rule 35 for the development and administration of light duty assignments in all City departments. These recommendations should also include:

- (1) an inventory and assessment of current modified duty programs in City departments;
- (2) a strategy for using previous job analyses (which have been conducted for the WCD by vocational rehabilitation counselors assigned by the QRR) to define the functional requirements of the City's employment classifications; and,
- (3) planning for a coordinated modified duty program, including the impact of the proposed Civil Service Commission Rule 35 and the role of the WCD in implementing a modified duty program for injured workers.

There may be increased costs for the services of a Qualified Rehabilitation Representative to develop a modified duty program in addition to the current responsibilities of this position. However, any such new costs would be offset by a reduction in temporary disability benefits. As noted in Section 6, the WCD currently employs an independent contractor as the QRR, who performed approximately 72 percent of a full time equivalent position in calendar year 1992. We have recommended in Section 6 that the QRR become a Civil Service position, which could perform full-time services (rather than .72 FTE) while also providing estimated annual savings of \$21,151. This savings of \$21,151 would be sufficient to employ the services of an additional .40 FTE Class 2566 Rehabilitation Counselor, before new costs for QRR services would be incurred. Thus, we estimate that, by employing Civil Service rehabilitation representatives, the WCD could procure an additional .68 FTE in QRR services at the same annual cost that it currently spends for the QRR services of an independent contractor. Thus, new costs would not be

incurred unless additional QRR services were needed in excess of 68 percent of a full time equivalent position.

Estimated Cost Savings

As noted above, the WCD expended a total of \$18 million in temporary disability benefits in FY 1992-93. Thus, a reduction of only ten percent in the level of temporary disability benefits would result in annual savings of approximately \$1.8 million.

Of the total 1992-93 expenditures of \$18 million, the WCD expended approximately \$8.4 million in temporary disability benefits for claims which were opened in 1992-93. If the number of new temporary disability claims which are filed were to decrease by 50 percent (as was accomplished elsewhere) as a result of a modified duty program, and if temporary disability payments were to decrease by a corresponding 50 percent, the WCD would realize annual savings of approximately \$4.2 million.

We therefore estimate that annual savings from these recommendations would be \$1.8 to \$4.2 million.

Conclusions

The principal means to control temporary disability benefits, once liability for a claim is accepted, are to (1) monitor the disability determinations which are made by treating physicians; (2) provide physicians with specific information concerning the employee's job duties, so that the physician can make an informed appraisal of the employee's ability to return to work; and (3) implement modified duty programs which provide employment opportunities within any applicable medical restrictions. In addition to reducing the cost of temporary disability benefits which are paid after a claim is filed, a modified duty program could decrease the incidence of new claims by as much as 50 percent.

Recommendations

The WCD should:

- 3.2-1 Provide physicians with specific information concerning job requirements, so that the treating physician can make an informed appraisal of the employee's ability to return to work;
- 3.2-2 Monitor the performance of physicians in determining that an injured employee is temporarily disabled and unable to return to work; and,
- 3.2-3 Assign responsibility for development of a modified duty program to the WCD Qualified Rehabilitation Representative (QRR).

The Qualified Rehabilitation Representative should:

- 3.2-4 Submit specific recommendations to the Mayor, the Civil Service Commission, and the Workers Compensation Task Force for a modified duty program, including (1) an inventory and assessment of current modified duty programs in City departments, (2) a strategy for using previous job analyses to define the functional requirements of the City's employment classifications, and (3) a plan for the City's modified duty program, including the impact of proposed Civil Service Rule 35 and the role of the WCD in implementing the plan.

Costs/Benefits

There may be increased costs for the services of a Qualified Rehabilitation Representative to develop a modified duty program in addition to the current responsibilities of this position if more than a .68 FTE position were needed to perform additional QRR services. However, any new costs for QRR services would be offset by a reduction in temporary disability benefits. A 10 percent reduction in the costs of these benefits would result in annual savings of approximately \$1.8 million. If the number of new claims filed were to decrease by 50 percent, with a corresponding reduction of 50 percent in temporary disability benefits, the City would realize annual savings of \$4.2 million. We therefore estimate that annual savings from these recommendations would be \$1.8 to \$4.2 million.

SECTION 3.3: CONTROL OF MEDICAL TREATMENT

- REVIEWING THE UTILIZATION OF MEDICAL CARE BY INJURED WORKERS TO ENSURE THAT THEY ARE NOT RECEIVING UNNECESSARY SERVICES CAN HELP CONTAIN WORKERS COMPENSATION COSTS.
- WCD DOES NOT CONDUCT SUCH UTILIZATION REVIEWS. FOR EXAMPLE:
 - (A) THE WCD HAS NOT ESTABLISHED PROCEDURES FOR CLAIMS EXAMINERS TO REVIEW MEDICAL TREATMENT AND MONITOR THE LEVEL OF SERVICE;
 - (B) LEVELS OF PHYSICAL THERAPY CARE ARE SUBSTANTIALLY HIGHER THAN THE CALIFORNIA AVERAGE; AND,
 - (C) THE ROLE OF THE WCD MEDICAL COORDINATOR HAS NOT BEEN CLEARLY DEFINED.
- THE WCD SHOULD IMPLEMENT UTILIZATION REVIEW PROCEDURES. SAVINGS FROM SUCH UTILIZATION REVIEW PROCEDURES WOULD RESULT IN ESTIMATED ANNUAL SAVINGS OF \$358,500 TO \$826,000 FOR PHYSICAL THERAPY ALONE. A 10 PERCENT REDUCTION IN MEDICAL TREATMENT COSTS WOULD RESULT IN ANNUAL SAVINGS OF APPROXIMATELY \$1.8 MILLION.

The WCD's total costs for medical services in 1992-93 were approximately \$17.9 million, representing approximately 46.5 percent of total workers compensation claim expenditures. The control of medical costs is essential to limiting the City's expenditures for workers compensation benefits. This section of our report addresses the WCD's performance in controlling medical costs which the City incurs for workers compensation claims.

Under the Labor Code, an employer is required to provide medical services which are "reasonably required to cure or relieve the effects of the injury." However, medical providers may recommend a higher level of medical service than is reasonably necessary to cure or relieve the injury. One way to contain workers compensation costs is to monitor the level of medical care to ensure that it is reasonable, but not unnecessarily high.

According to the International Foundation of Employee Benefit Plans,¹ medical providers may treat injured workers at a higher level than is reasonably necessary for a number of reasons, including:

- Doctors and hospitals are geared to respond to medical crises with *all* available resources;
- Sophisticated technology is often used when simpler procedures would suffice;
- Patients may be admitted to the hospital to receive services that could be provided on an outpatient basis, or may stay in the hospital longer than necessary;
- Health care providers practice "defensive medicine" to protect themselves from possible legal action against them; and
- Many providers do not consider cost containment in making decisions regarding medical care.

Because medical providers may respond to an injury at a higher level than is reasonably necessary, workers compensation program administrators must establish procedures for reviewing the levels of medical treatment provided to injured workers.

The purpose of our research for this section was to determine the adequacy of the WCD's procedures for monitoring of level of treatment. We found that, while the Department has contracted for the services of a Medical Coordinator for a limited number of cases, no regular utilization review takes place. Based on our research, it appears that WCD is not controlling the type and length of care injured workers receive because:

- Claims adjusters are not trained to evaluate the length or type of care which is provided;
- Levels of physical therapy care are significantly higher than the California average; and,
- The role of the WCD Medical Coordinator has not been clearly defined.

In this section, we discuss the level of treatment which the WCD provides to injured workers. We assess the WCD's performance in directing the activities of the Medical Coordinator and claims examiners, and analyze WCD expenditures for physical therapy, which represents a significant portion of all WCD expenditures for medical treatment. Our analysis reveals that the WCD has not implemented effective controls over the provision of medical treatment in order to ensure that such treatment is "reasonably necessary."

¹ Johnson, Richard E.: *Utilization Review: A How-to-Guide*. International Foundation of Employee Benefit Plans; 1988.

Monitoring Medical Treatment

The WCD employs the services of a Medical Coordinator, who is an independent contractor. The Medical Coordinator is a registered nurse who defines her role as "medical management" of claims in order to ensure that appropriate care is provided, that the quality of care is good, and that costs of medical services are reasonable. However, the services of the Medical Coordinator are limited to complex medical issues; the Medical Coordinator indicated that, in low cost claims, medical case management should be performed by claims examiners, who should be knowledgeable in basic medical case management techniques. However, as noted in Section 2.3 of this report, 60 percent of claims examiners reported that they needed additional training in medical treatment and medical case management.

The WCD has not implemented standard procedures for the review of medical treatment services to ensure that they are "reasonably necessary." For instance:

- Claims examiners lack most of the information resources, such as access to medical bills, training in medical procedures, and records of the dates of service, to control the level of medical treatment.
- Claims examiners provided highly inconsistent accounts of their role in approving medical treatment services, and largely assigned responsibility for the control of medical costs to Reviewco, a medical bill review company. However, in most cases Reviewco does not review the level of treatment which is provided in individual claims, but merely reduces billed charges to allowable rates under the Official Medical Fee Schedule. Reviewco's utilization review services are limited to reviewing surgical bills to ensure that billed charges are reasonable.
- The WCD has not developed consistent standards for the referral of cases to the Medical Coordinator for medical case management. Claims examiners report favorably on the quality of the Medical Coordinator's services, but report that they are generally unfamiliar with her exact role within the organization and their own responsibilities for identifying and referring cases for medical management. One claims supervisor reported that she has "no idea" what the role of the Medical Coordinator is, while another supervisor emphasized the need for better referral and medical management procedures.
- The Medical Coordinator has implemented utilization review procedures for inpatient hospital services, using the services of Worker Compensation Casualty Services (WCCS).² However, the WCD has not developed standard procedures for evaluating inpatient hospital services by WCCS, and claims examiners have provided inconsistent descriptions of their role in approving inpatient hospital services in collaboration with WCCS.

² WCCS is an independent contractor which provides services on a case by case basis.

Analysis of Physical Therapy Costs

To evaluate the appropriateness of the medical treatment services approved by the WCD, we reviewed data concerning the provision of physical therapy services. This review indicates that physical therapy services authorized by the WCD are significantly higher than the State-wide average for physical therapy costs in workers compensation claims. Generally, physical therapy should be easier to control than other types of medical services, since (1) physical therapy is a straight forward procedure which can be readily monitored without extensive medical expertise, and (2) numerous sources indicate that physical therapy should not continue for more than 8 weeks except in exceptional circumstances, since maximum improvement should be expected to occur within that time.³ In addition, since there is no indication that WCD manages physical therapy costs differently than other categories of medical care, we believe that, if the WCD has not controlled physical therapy services effectively, then it has probably also been deficient in controlling other types of medical treatment.

To perform our review, we conducted separate random samples of City employees who received physical therapy services in fiscal years 1991-92 and 1992-93. The WCD's expenditures for physical therapy were approximately \$3.5 million in 1991-92 (representing 18.6 percent of total 1991-92 medical costs of approximately \$18.9 million), but had declined to \$1.04 million in 1992-93 (representing 6 percent of total 1992-93 medical costs of approximately \$17.3 million). The reason for this decline is unknown, but did not result from changes to WCD operating procedures between 1991-92 and 1992-93.

We evaluated the results of our sample in comparison with research published by the California Workers' Compensation Institute,⁴ a non-profit organization. The results of this comparison indicate that the level of physical therapy authorized by the WCD is significantly higher than for California employees in general, as indicated by the following table:

³ This standard was communicated to the WCD Office Manager during a training course in workers compensation medical provider abuses, and has been substantiated by WCD program managers in other California jurisdictions.

⁴ California Workers' Compensation Institute: "Physical Medicine in California Worker's Compensation: Issues and Options." May, 1993.

Table 3.1
Comparison of WCD and Statewide Averages for
Physical Therapy Treatment

California in General

- On average, the entire course of treatment is slightly more than seven weeks. Nearly 1/3 (33 percent) of all cases involve less than one week of treatment, indicating that long-term cases are distorting the average upward;
- Physical therapy costs exceed \$1,000 in less than 15 percent of physical medicine claims; and,
- The total cost of physical therapy is less than \$250 in almost half (50 percent) of State-wide workers compensation claims.

San Francisco

- On average, the entire course of treatment is slightly less than 21 weeks, almost three times more than the California average. In only 13 percent of the cases did care involve less than one week of treatment;
- In both 1991-92 and 1992-93, physical therapy costs exceeded \$1,000 in more than half of physical medicine claims (51 percent in 1991-92 and 56 percent in 1992-93); and,
- The total cost of physical therapy was less than \$250 in only 9.2 percent of 1991-92 claims and in only 12 percent of 1992-93 claims.

In addition, the California Workers' Compensation Institute (CWCI) research indicated that most patients see their providers once a week, on average. The WCD was unable to provide information regarding the number of visits patients made to providers per week. We calculated an estimated average range of visits of two 45 minute sessions to three 30 minute sessions per week.⁵

This comparative information indicates that, when compared to the average California employee, San Francisco employees receive physical therapy for a longer period of time and visit their providers more often than do other workers compensation claimants.⁶

⁵ This average is based on the average cost per week for San Francisco employees of \$95.52, and a cost per visit of approximately \$38 for 30 minutes, or approximately \$49 for 45 minutes.

⁶ The CWCI sample included 30,265 claims taken from a database of 290,000 claims which were insured by private insurance companies. If these insurance companies provide commercial workers compensation insurance coverage to public agencies, the sample may have contained some public safety employees. Conversely, the sample may have also included high risk occupations (such as construction workers) who are not well represented in the City's labor force.

Injuries to San Francisco employees may be somewhat atypical compared to other California employees, because:

- (1) Municipal Railway and other employees in public utilities may experience a higher incidence and/or more severe injuries than the employees sampled by the CWCi, and,
- (2) Public safety employees, such as police officers and fire fighters, may also experience more injuries or more severe injuries than employees in other occupations.

For this reason, we analyzed the provision of physical therapy to employees of the Municipal Railway and the Police and Fire Departments. WCD expenditures for these employees in 1991-92 were as follows:

**Table 3.2
Physical Therapy Costs for
Police, Fire and Municipal Railway Employees
1991-92 and 1992-93**

	<u>1991-92</u>	<u>1992-93</u>
Police Department	\$756,382	\$240,728
Fire Department	617,891	187,552
Municipal Railway	<u>515,716</u>	<u>157,193</u>
Total	\$1,889,989	\$585,473

Expenditures for these groups of employees therefore represented 53.8 percent of total physical therapy expenditures of \$3,513,296 in 1991-92, and 56.6 percent of 1992-93 expenditures of \$1,035,227.

Analysis of Public Safety & MUNI Physical Therapy Costs

We have conducted two analyses of WCD expenditures for physical therapy based on different assumptions concerning the appropriate level of treatment for Police, Fire and Municipal Railway employees. In the first scenario, we assume that physical therapy was provided at an appropriate level to these employees in each year (due to the higher incidence of injuries or more severe injuries sustained by employees in these departments). In the second scenario, we assume that all City employees should have received a level of treatment which corresponds to the State-wide averages reported by the CWCi. The actual savings that should be realized through more effective oversight by the WCD is likely to be somewhere in between these two estimates.

Given that 53.8 percent of the WCD's 1991-92 expenditures for physical therapy were made for Police, Fire, and Municipal Railway employees, we have conservatively estimated that these employees should receive care at an average cost of \$2,006 (the overall average cost per employee in 1991-92, which includes 21 weeks of care and two to three appointments per week). We assume that the remaining employees should receive, on average, the amount of care indicated by the California Worker's Compensation Institute, or an estimated \$305 per employee (seven weeks of care, one appointment per week⁷).

The WCD was unable to provide information regarding the number of employees who received care; we estimated, based on an average cost per employee of \$2,006, that 1,751 employees received care. Based on our estimate that 53.8 percent of these employees (or 942) should receive care at an average cost of \$2,006, and that 46.2 percent of these employees (or 809) should receive care at an average cost of \$305, we estimate that the total cost for physical therapy should have been no more than \$2,136,397 in 1991-92. Given actual FY 1991-92 costs of \$3,513,296, this conservative estimate indicates that adequate utilization review could have saved the City approximately \$1,376,899 in physical therapy costs alone (a decrease of 39.2 percent).

Our liberal estimate assumes that the presence of Municipal Railway and public safety employees should not distort the average length or cost of physical therapy services. Under these assumptions, all 1,751 recipients of physical therapy in 1991-92 should have received an average of seven weeks of care at an average cost of \$305, for a total of \$534,055. Given actual FY 1991-92 costs of \$3,513,296, this liberal estimate indicates that adequate utilization review would have saved the City approximately \$2,979,241 in physical therapy costs alone (a decrease of 84.8 percent). According to this estimate, the WCD expended almost seven times what it should have expended for physical therapy services, compared to the State-wide average (\$3,513,296 actually expended, compared to estimated reasonable expenditures of only \$534,055).

We conducted an identical analysis for 1992-93 physical therapy costs. This analysis reveals that an estimated 686 employees received physical therapy in 1992-93, compared to 1,751 in 1991-92, a decrease of 1,065, or 61 percent. The average cost had decreased from \$2,006 in 1991-92 to \$1,509 in 1992-93, a decrease of 25 percent. Under our conservative assumption (which assumes that the 1992-93 average of approximately 20 weeks of therapy was appropriate for each Police, Fire, or Municipal Railway employee who received such care), we estimate that total expenditures should have been no more than \$676,715, or \$358,512 less than actual 1992-93 expenditures of \$1,035,227 (a decrease of 34.6 percent). Under the more liberal assumption that all San Francisco physical therapy recipients should have received the California average of seven weeks of treatment, we estimate that total expenditures should have been no more than \$209,230, or \$825,997 less than actual 1992-93 expenditures of \$1,035,227 (a decrease of 79.8 percent).

⁷ Assumes that half the employees receive 30 minute appointments and half receive 45 minute appointments.

In summary, we conclude that the WCD could have saved between \$1,376,899 and \$2,979,241 in 1991-92, and between \$358,512 and \$825,997 in 1992-93, through more effective controls over the authorization of physical therapy treatment alone. These savings represent 34.6 percent to 84.8 percent of physical therapy expenditures during those two fiscal years. Savings associated with more effective utilization review of other medical services would be in addition to these savings. We note that a mere 10 percent reduction in overall medical costs would result in annual savings of \$1.8 million, based on 1992-93 medical expenditures of approximately \$17.9 million.

The WCD should develop more effective mechanisms for the control of medical costs, given:

- The limited information which is available to claims examiners to review the level of medical treatment provided to injured workers;
- The expressed desire of 60 percent of claims examiners to receive additional training in the control of medical costs;
- The lack of clear criteria for the services of the Medical Coordinator and WCCS; and
- The relatively high levels of physical therapy care that is provided to injured workers, which indicates that other levels of medical treatment are probably also higher than reasonably necessary.

Implementation of Utilization Review

Most other California jurisdictions employ utilization review procedures to ensure that levels of treatment are reasonable, but not higher than necessary. In seven of the 15 jurisdictions which responded to our survey, formal utilization review procedures are used to control the level of treatment which is provided to injured workers. Of these seven jurisdictions:

- Three (San Mateo County, Santa Clara County, and the City of Los Angeles) directly employ the services of health professionals to review the appropriateness of the treatment decisions which are made by physicians;
- Two (Oakland and San Diego) require prior approval by claims examiners of all outpatient medical services; and,
- One (Riverside County) requires prior approval by claims examiners of major diagnostic procedures, such as CT-SCANs or Magnetic Resonance Imaging.⁸

Of the remaining eight jurisdictions, three did not provide specific information, and four do not employ utilization review for outpatient services.

⁸ Computerized Tomography Scans (CT-Scans) and Magnetic Resonance Imaging (MRI) are high cost diagnostic procedures.

To ensure that medical treatment is reasonable, but not higher than necessary, the WCD should:

- Develop formal utilization review procedures for the approval of medical treatment services by claims examiners;
- Instruct physicians to contact the WCD for pre-authorization of medical treatment which meets established criteria for utilization review;⁹
- Deny reimbursement to physicians for medical treatment which is not reasonably required to cure and relieve the effects of the injury.

The specific need for utilization review services at the WCD depends on the number of claims in which an extensive level of medical treatment is recommended by the physician. We have not conducted a comprehensive analysis of WCD medical services to determine specific guidelines for the review of medical procedures by claims examiners. However, we note that a high volume of WCD claims do entail significant medical costs. For instance:

- In the sample of 100 claims which were active in November, 1992, the average cost of all medical services which had been provided since the inception of the claims was \$16,383. (This sample represents a cross-section of the WCD caseload as of November, 1992.)
- Even among new claims which had been open only for a short time, medical costs were substantial: the average medical costs paid through September, 1993 among 100 claims which were opened in 1992-93 was \$1,389. The median medical cost in these claims was \$581, meaning that 50 percent of these claims entailed medical costs of \$581 or more. (This sample is representative of all new claims which were filed in 1992-93).

Services of the Medical Coordinator

As previously noted, the WCD employs the services of a Medical Coordinator, an independent contractor, to conduct medical case management of high cost claims, although the role of the Medical Coordinator has not been clearly defined by WCD managers. The WCD has not maintained records concerning the claims which have been assigned to the Medical Coordinator, the services which have been provided, or the volume of claims in which medical case management may be indicated.

⁹ For instance, the Health Service System currently requires prior approval for (1) any procedure where the fee is expected to exceed \$500, and (2) numerous high cost diagnostic and therapeutic procedures, including MRIs and CT Scans.

As noted above, a number of other jurisdictions utilize the services of health professionals to monitor the medical treatment decisions which are made in workers compensation claims. Based on our review of WCD management practices, we believe that the services of a permanent health care professional, such as the Medical Coordinator, to conduct more comprehensive utilization review and case management activities may be warranted. However, the creation of a permanent Civil Service position for this purpose should be based on more complete information concerning the need for such services, in addition to the review and approval of medical expenditures which can often be performed by claims examiners with proper training.

Rather than eliminating the role of the Medical Coordinator, who may confer a significant benefit in controlling medical costs, or adding a permanent Civil Service position in the absence of a clearly defined need for the services of a health care professional, the WCD should justify the specific need for a Medical Coordinator in order to continue these services. Specific justification should include the number of cases which are referred to the Medical Coordinator for intervention or medical case management, an explanation of the services which are performed by the Medical Coordinator, why these services could not be performed by claims examiners or supervisors, and the estimated cost savings associated with the services of the Medical Coordinator.

At the present time, the role of the Medical Coordinator should be expanded to include development and implementation of a WCD utilization review program. This program should include:

- Training claims examiners to review the appropriateness of recommended medical treatment;
- Developing pre-authorization criteria for physicians when major diagnostic or therapeutic procedures are recommended;
- Developing recommended treatment protocols for different types of injuries, including the use of physical therapy, MRI procedures, and other diagnostic and therapeutic techniques, based on standards of care which have been adopted by the medical community; and,
- Developing criteria for the use of second medical opinions when medical treatment appears not to be appropriate.

This utilization review program should be documented by the WCD. Written policies and procedures should be developed concerning, (1) the role of claims examiners in reviewing medical treatment, (2) referring claims to the Medical Coordinator for medical case management or other types of intervention, and (3) utilizing the inpatient utilization review services of WCCS. The City's primary medical provider and treating physicians should be provided with specific written

guidelines for obtaining pre-authorization for certain types of treatment, based on criteria established by the Medical Coordinator.¹⁰

The Medical Coordinator earned approximately \$60,000 in 1992-93. At the Medical Coordinator's current hourly rate of \$53, this is equivalent to 1,132 hours of case management services which were performed on behalf of the WCD, or 54 percent of one full time equivalent position (based on 2,080 FTE hours per annum). If the Medical Coordinator were to assume full-time responsibilities (an additional 948 hours annually) in order to develop and implement a utilization review program, we estimate that the WCD would incur additional costs of approximately \$50,244 annually.

Conclusions

The WCD should actively review the level of medical treatment which is recommended by health care providers in order to control unnecessary costs. However, the WCD has not developed consistent standards, policies, and procedures for controlling medical costs. Claims examiners report a need for additional training in medical issues, and the role of the Medical Coordinator, an independent contractor, has not been clearly defined. The recent high level of expenditures for physical therapy services indicates that significant savings could be realized by implementing more effective controls over medical treatment services. The WCD should implement a utilization review program for this purpose.

Recommendations

The WCD should:

- 3.3-1 Develop formal utilization review procedures for the approval of medical treatment services by claims examiners;
- 3.3-2 Document its policies and procedures for utilization review of medical treatment services;
- 3.3-3 Instruct treating physicians to obtain pre-authorization of medical treatment which meets established criteria for utilization review; and,
- 3.3-4 Provide specific justification for the services of a Medical Coordinator in order to continue these services after fiscal year 1994-95.

¹⁰ The City is required to provide medical treatment which is "reasonably necessary" to its injured employees. The WCD cannot deny treatment which is not pre-authorized, even if a requirement for pre-authorization is imposed on the physician. However, as noted above, workers compensation programs in other jurisdictions have successfully implemented utilization review procedures by directing medical providers to contact claims examiners in order to define a course of treatment which is agreed upon between the examiner and the physician. Although the physician's failure to obtain pre-authorization may not result in denial of reimbursement, the implementation of specific guidelines will help to control medical treatment costs, and will ensure continuing oversight of medical services by WCD staff.

Costs/Benefits

More effective controls over medical costs would result in unquantifiable reductions from total 1992-93 expenditures. We estimate that savings in physical therapy costs alone could range from \$358,500 to \$826,000, compared to 1992-93 levels. A 10 percent reduction in total medical costs would result in annual savings of \$1.8 million, based on 1992-93 medical expenditures of approximately \$17.9 million.

If the Medical Coordinator were to assume full-time responsibilities in order to develop and implement a utilization review program, we estimate that the WCD would incur additional costs of approximately \$50,244 annually.

SECTION 3.4: PERMANENT DISABILITY

- THE WCD HAS NOT DEVELOPED UNIFORM STANDARDS AND PROCEDURES FOR DETERMINING PERMANENT DISABILITY BENEFITS. SPECIFICALLY:
 - (A) SETTLEMENT AUTHORITY LIMITS HAVE NOT BEEN CLEARLY COMMUNICATED TO CLAIMS SUPERVISORS AND EXAMINERS IN ORDER TO CONTROL THE AMOUNT OF FINANCIAL SETTLEMENTS WHICH CAN BE AUTHORIZED BASED ON THE EXAMINERS EXPERIENCE;
 - (B) COMPREHENSIVE RECORDS OF PRIOR SETTLEMENTS ARE NOT MAINTAINED IN ORDER TO REDUCE THE RISK OF DUPLICATE PAYMENTS;
 - (C) COMPLEX FINANCIAL CALCULATIONS ARE PERFORMED MANUALLY, AND QUALITY CONTROLS HAVE NOT BEEN INSTITUTED TO CONFIRM BENEFIT CALCULATIONS;
- WITHOUT THESE QUALITY CONTROL MEASURES, THE CITY IS AT RISK OF PAYING MORE THAN NECESSARY IN PERMANENT DISABILITY BENEFITS.
- THE WCD SHOULD DEVELOP SPECIFIC STANDARDS FOR THE ADMINISTRATION OF PERMANENT DISABILITY BENEFITS, INCLUDING THE CALCULATION OF DISABILITY RATINGS, THE ANALYSIS OF PREVIOUS PERMANENT DISABILITY AWARDS TO THE SAME CLAIMANT, AND THE AUTHORITY OF CLAIMS EXAMINERS TO APPROVE THE FINANCIAL SETTLEMENT OF CLAIMS.
- A TEN PERCENT REDUCTION IN PERMANENT DISABILITY EXPENDITURES WOULD RESULT IN ANNUAL SAVINGS OF AT LEAST \$195,000.

Permanent disability indemnity payments are made to injured workers who experience a reduction in their future earnings capacity due to a work-related injury. However, the WCD has not developed effective procedures for the administration of permanent disability benefits. Specifically:

- Claims examiners are inadequately trained in the determination of permanent disability benefits;
- Claims examiners report that the WCD has not established effective quality control procedures to avoid duplicative payment of permanent disability benefits;

- Calculations of permanent disability benefits are complex, time-consuming, and prone to human error; however, the WCD has not utilized existing computer capabilities to calculate permanent disability benefits, nor developed quality control procedures to insure that benefits are paid correctly; and,
- The WCD has not imposed "settlement limits" for individual claims examiners in order to limit the authority of claims examiners to authorize large financial payments. These settlement limits should be based on the examiner's experience in rating disabilities and calculating permanent disability benefits.

Rating of Permanent Disabilities

After a physician has determined that an injured worker has sustained a permanent impairment as the result of an injury, WCD claims examiners are responsible to "rate" the injury according to several factors. These factors include the nature of the injury, the employee's occupation, and the employee's age.

This is a complex area of the law in which examiners consistently report a desire for additional training. As noted in Section 2.3 of our report, 70 percent of claims examiners have expressed a wish to receive additional training in permanent disability ratings.

The rating which is assigned to a permanent disability directly determines the amount of benefits which are payable by the City. As a result of insufficient training of claims examiners in the rating of permanent disabilities, the City may incur higher costs than are necessary for permanent disability benefits. The WCD should ensure that claims examiners are properly trained and evaluated in the administration of permanent disability benefits.

Excluding Payments for Prior Injuries

The City is responsible to pay only for the incremental effects of an injury on an employee's earnings capacity. Thus, the full effect of the impairment can be apportioned either to non-industrial causes or to previous injuries. However, several claims examiners have stated that the WCD has not implemented effective quality controls to determine whether an employee was previously awarded permanent disability benefits for a previous injury, in order to avoid duplicative financial awards.

The WCD's claims management information system includes the capability to code previous claims on behalf of any employee, according to whether a financial award was made in a previous claim. However, this information is not maintained consistently by the WCD. The WCD Division Manager reports that, before proposed financial settlements are approved, information concerning previous awards to the same claimant is retrieved from closed claim files which have been stored off-site. However, several claims examiners have reported that settlements have been approved without reference to previous settlements which were made to the same

claimant. Therefore, the WCD should review its quality control procedures for the review of previous financial settlements and implement any necessary improvements to avoid duplicative payment of permanent disability benefits.

In addition, the WCD should establish a central file of permanent disability awards, including the name of the claimant, the date of the injury, the type of the injury, the claim number assigned to previously settled claims, and the permanent disability rating which formed the basis for the settlement.

Calculation of Permanent Disability Benefits

Claims examiners have noted that calculations of permanent disability awards could be performed more effectively through the use of an effective claim management information system. Claims examiners report that they may expend hours performing calculations which could be performed by the claims management information system.¹ The WCD claims management information system has the ability to calculate permanent disability benefits, but this capacity is not being used at the present time.

By requiring that permanent disability awards be calculated manually, based on complex rating formulas, the WCD increases the likelihood of significant errors in the calculation of benefits. However, the WCD has not established quality control procedures to review benefit calculations which are made by claims examiners.

The WCD should perform calculations of permanent disability awards using a computer program designed for this purpose, and these calculations should be subject to review and approval by claims supervisors.

Settlement Limits

Settlement limits for claims examiners are needed to ensure that claims examiners who may be inexperienced in the administration of permanent disability benefits do not authorize large financial settlements which may not be warranted.

Specified settlement limits for individual claims examiners would result in the review of benefits proposed to be provided whenever the dollar amount of the settlement exceeded the examiner's settlement authority. This is a basic quality control issue which affects the City's costs for permanent disability benefits.

The WCD Division Manager indicates that the WCD has established settlement limits for claims supervisors and claims examiners. However, in interviews with the Budget Analyst, two of the WCD's three claims supervisors reported that the WCD has not established settlement limits for claims examiners, while the third supervisor stated that there are established settlement limits at the

¹ The WCD's claims management information system is discussed in detail in Section 8 of this report

WCD, but that she "doesn't know what they are." Claims examiners generally reported that there are no settlement limits.

In the absence of established settlement limits which have been clearly communicated to WCD supervisors and staff, the City is at risk of paying more for permanent disability benefits than is warranted by the actual circumstances of the claim.

The WCD should institute specific settlement limits for claims examiners, based on their experience in rating permanent disabilities and calculating permanent disability awards, and clearly communicate its policies and procedures for the review of proposed settlements by claims supervisors and the WCD Division Manager, based on established settlement limits.

Estimated Cost Savings

Based on 1992-93 expenditures of \$1,952,673 which were reported by the WCD for permanent disability benefits, a ten percent reduction in the cost of these benefits would result in annual savings of approximately \$195,000.²

Conclusions

The WCD has not established effective procedures for managing permanent disability benefits. Claims examiners report that the WCD has not established effective quality control procedures to avoid duplicative payment of permanent disability benefits. Also, claims examiners make complex calculations manually. These calculations should be made by computer, to reduce the risk of overpayment. In addition, the WCD has not established clear settlement limits for claims examiners and supervisors. Without these quality control measures, the City is at risk of paying more than necessary in permanent disability benefits.

Recommendations

The WCD should:

- 3.4-1 Ensure that claims examiners are properly trained and evaluated in the administration of permanent disability benefits;
- 3.4-2 Review its quality control procedures for the review of previous financial settlements and implement any necessary improvements to avoid duplicative payment of permanent disability benefits;
- 3.4-3 Establish a central source of information concerning prior permanent disability awards;

² As discussed in Section 5.2 of this report, the WCD does not maintain accurate financial data concerning the City's total annual costs for permanent disability benefits. This is due to the fact that significant portions of the City's permanent disability benefits are categorized as temporary disability benefits in the WCD's accounting system.

- 3.4-4 Perform calculations of permanent disability awards using a computer program designed for this purpose, and these calculations should be subject to review and approval by claims supervisors;
- 3.4-5 Institute specific settlement limits for claims examiners, based on their experience in rating permanent disabilities and calculating permanent disability awards, and establish clear policies and procedures for the review of proposed settlements by claims supervisors and the WCD Division Manager, based on established settlement limits.

Costs/Benefits

There would be no costs associated with developing specific standards for the administration of permanent disability benefits. A ten percent reduction in permanent disability benefits resulting from such quality control standards would result in estimated savings of \$195,000 annually.

SECTION 3.5: VOCATIONAL REHABILITATION

- THE WCD CONTRACTS FOR THE SERVICES OF VOCATIONAL REHABILITATION COUNSELORS TO PROVIDE MANDATED REHABILITATION SERVICES, BUT DOES NOT OVERSEE THESE CONTRACTORS. CLAIMS EXAMINERS DO NOT ASSESS ELIGIBILITY OF INJURED WORKERS FOR REHABILITATION BENEFITS, DO NOT PARTICIPATE IN THE DEVELOPMENT OF VOCATIONAL REHABILITATION PLANS, AND DO NOT MONITOR VOCATIONAL REHABILITATION EXPENDITURES.
- VOCATIONAL REHABILITATION REPRESENTS A SIGNIFICANT COST TO THE CITY WHICH SHOULD BE CAREFULLY MONITORED. IN THE ABSENCE OF EFFECTIVE CONTROLS, THE WCD PAID \$8,232 FOR TUITION COSTS AT AN IVY LEAGUE UNIVERSITY.
- THE WCD SHOULD OVERSEE THE PROVISION OF VOCATIONAL REHABILITATION SERVICES. A TEN PERCENT REDUCTION IN VOCATIONAL REHABILITATION COSTS WOULD RESULT IN SAVINGS OF AT LEAST \$84,604 ANNUALLY.

The provision of vocational rehabilitation benefits to injured workers has been the responsibility of the employer since 1975, under the State Labor Code. Rehabilitation benefits include job analysis, on the job-training, educational services, job placement, and any other services required to return an employee to work. Under State law, the WCD is required to provide the services of a Qualified Rehabilitation Representative (QRR) to facilitate the provision of vocational rehabilitation benefits to injured workers. An appropriate rehabilitation plan is then created by a rehabilitation representative, in cooperation with the employee.

The Workers Compensation Division has contracted with Ayers & Company for QRR services.¹ The Ayers & Company QRR works on site at the WCD. She evaluates the eligibility of injured workers for rehabilitation benefits, and refers qualified workers to rehabilitation counselors, who are also independent contractors. These rehabilitation counselors are responsible for developing formal rehabilitation plans, in cooperation with the employee.

The WCD does not monitor rehabilitation benefits provided by these independent contractors. For example:

¹ Significant changes concerning the role of the Qualified Rehabilitation Representative took effect January 1, 1994. For instance, a previously mandated consultation between the QRR and the employee following 90 days of disability is no longer required.

- The Ayers & Company rehabilitation representative, rather than the claims examiner, is responsible for assessing the eligibility of injured workers for rehabilitation benefits.
- Claims examiners do not participate in the development of vocational rehabilitation plans, and do not monitor the rehabilitation benefits that are provided. Rather, the oversight of rehabilitation plans is delegated exclusively to the rehabilitation representative, an independent contractor.
- Bills submitted by the rehabilitation representative are not reviewed by claims examiners, but are instead approved by the Division Manager, who does not oversee any aspect of the provision of rehabilitation benefits in individual cases.
- Bills submitted by vocational rehabilitation counselors are reviewed by the rehabilitation representative, and not by WCD staff. The rehabilitation representative submits the bills to claims processors, who instigate payment through the Controller's WICS payment system.

The lack of oversight of vocational rehabilitation exposes the City to the potential for significant abuse of workers compensation vocational rehabilitation benefits. For instance:

- An independent vocational rehabilitation counselor authorized \$8,232 in tuition costs in 1991-92 to enable an employee of the San Francisco Unified School District to attend Cornell University. There are certainly less costly alternatives for returning an employee to suitable gainful employment than paying the employee's tuition at an Ivy League institution.
- Our random sample of 100 claims indicated that in one instance, vocational rehabilitation benefits, which should be paid at \$246 per week, were instead paid at \$336 per week.

To improve oversight of vocational rehabilitation programs, and to ensure that vocational rehabilitation services are cost effective, the WCD should monitor the activities of any independent contractors who provide vocational rehabilitation services. This monitoring should include a review of the rehabilitation plans which are recommended by rehabilitation counselors, and the cost effectiveness of the proposed rehabilitation plans. The eligibility of City employees for vocational rehabilitation services should be monitored by claims examiners, and not determined independently by independent contractors. Invoices received in connection with vocational rehabilitation services should be reviewed and approved by claims examiners who are trained in the administration of vocational rehabilitation benefits.

Estimated Cost Savings

According to WCD records, the total cost of vocational rehabilitation services in 1992-93 was \$846,034. A ten percent reduction in these costs would result in cost savings of \$84,604.

Conclusions

The WCD contracts for the services of rehabilitation representatives to determine appropriate levels of vocational rehabilitation services, but does not oversee these contractors. Claims examiners do not assess eligibility of injured workers for rehabilitation benefits, do not participate in the development of vocational rehabilitation plans, and do not monitor these benefits. Bills are not reviewed by WCD staff. For example, the WCD expended \$8,232 in tuition costs at an Ivy League university.

Recommendations

The WCD should:

- 3.5-1 Ensure that the eligibility of City employees for vocational rehabilitation services is monitored by claims examiners, and not made independently by independent contractors.
- 3.5-2 Monitor the activities of independent contractors who provide vocational rehabilitation services for injured workers.
- 3.5-3 Ensure that invoices submitted by vocational rehabilitation counselors are reviewed by claims examiners.

Costs/Benefits

There would be no costs associated with these recommendations. A ten percent reduction in vocational rehabilitation costs would result in savings of \$84,604 annually.

SECTION 4: ADMINISTRATION OF DISABILITY RETIREMENT BENEFITS

- THE WCD ADMINISTERS DISABILITY RETIREMENT BENEFITS WHICH ARE AUTHORIZED UNDER THE CITY CHARTER. HOWEVER, THE WCD HAS NOT DEVELOPED CONSISTENT POLICIES AND PROCEDURES FOR THE ADMINISTRATION OF DISABILITY RETIREMENT BENEFITS.
- IN THE ABSENCE OF SPECIFIC STANDARDS FOR GRANTING DISABILITY RETIREMENT BENEFITS, DISABILITY RETIREMENT BENEFITS ARE ADMINISTERED INCONSISTENTLY ACCORDING TO WHETHER A DEPARTMENT HAS OFFERED A LIGHT DUTY ASSIGNMENT TO THE EMPLOYEE. AS A RESULT, DISABILITY RETIREMENTS WERE GRANTED TO FIRE DEPARTMENT EMPLOYEES AT TWENTY TIMES THE RATE OF OTHER EMPLOYEES OVER THE LAST THREE YEARS.
- UNDER THE CHARTER, "TIER I" POLICE OFFICERS AND FIREFIGHTERS ARE ENTITLED TO MAXIMIZE TEMPORARY DISABILITY BENEFITS BEFORE BEING RETIRED ON PERMANENT DISABILITY, RESULTING IN INCREASED EXPENDITURES FOR WORKERS COMPENSATION BENEFITS OF AN ESTIMATED \$227,640 TO \$341,459 ANNUALLY. HOWEVER, 'TIER II' POLICE OFFICERS AND FIREFIGHTERS, AND OTHER PUBLIC SAFETY OFFICERS, ARE NOT ENTITLED TO RECEIVE MAXIMUM TEMPORARY DISABILITY BENEFITS BEFORE RETIRING DUE TO PERMANENT DISABILITY. THEREFORE, THE WCD SHOULD DEVELOP A POLICY THAT, FOR NON TIER I PUBLIC SAFETY EMPLOYEES, THE EFFECTIVE DATE OF A DISABILITY RETIREMENT SHOULD BE BASED ON THE DATE THAT PERMANENT DISABILITY HAS BEEN MEDICALLY DETERMINED.
- THE RECOMMENDED BENEFITS ADMINISTRATOR IN THE DEPARTMENT OF HUMAN RESOURCES SHOULD SEEK TO INTEGRATE THE PROVISION OF MEDICAL TREATMENT FOR EMPLOYEES WHO ARE RETIRED ON THE BASIS OF AN INDUSTRIAL DISABILITY WITH OTHER EMPLOYEE HEALTH CARE BENEFITS WHICH ARE PROVIDED TO RETIRED EMPLOYEES BY THE HEALTH SERVICE SYSTEM.

In addition to administering workers compensation benefits for temporary or permanent disability which are mandated under the State Labor Code, the Workers Compensation Division administers applications for disability retirements of City employees who are "incapacitated for the performance of duty." However, the WCD has not developed consistent standards to evaluate an employee's eligibility for disability retirement. Specifically:

- (1) An employee's eligibility for disability retirement can be influenced by the actions of City departments and the availability of light duty assignments for disabled employees; and,
- (2) The WCD has not developed criteria to establish the effective dates of retirement for employees whose disability retirements are granted, allowing employees to fully utilize other workers compensation and employee leave benefits before permanently retiring on disability.

Overview

Any City employee who is permanently disabled may be eligible to retire on the basis of disability. Disability retirement benefits are not workers compensation benefits under the State Labor Code, but rather are authorized under the City Charter. Since most disability retirements result from work-related injuries which are the subject of workers compensation claims, the WCD administers these benefits as part of its overall responsibility to administer the compensation and benefits which are provided by the City to industrially injured workers.

Under Charter Section 8.518, applications for disability retirements are evaluated by independent hearing officers who are retained under contract to the Employees Retirement System. Thus, the WCD does not approve or deny applications for disability retirements. The WCD reviews prior workers compensation claims in order to develop a record of work-related injuries which are relevant to the disability retirement application, and also administers the medical benefits provided to employees who are retired as the result of work-related injuries.

Disability retirements may result either from work-related injuries ("industrial" disability retirements) or from other causes, such as a non-industrial medical condition ("ordinary" disability retirements). According to ERS records, most employees who are granted disability retirements are retired on the basis of work-related injuries, and most are sworn personnel in the Police and Fire Departments. Police officers and firefighters are considered to be more susceptible to work-related injuries, and are granted more generous disability retirement benefits under the City Charter than are miscellaneous employees. In addition, the disability retirement benefits of Tier I public safety officers (those who were hired before November 1, 1976) are more generous than those of Tier II employees (those who were hired after November 1, 1976).

Employees who retire for disability receive disability retirement "allowances," or pensions. The amount of an employee's disability retirement allowance is based on (1) the employee's Civil Service classification, (2) the employee's years of service with the City, and (3) whether the disability resulted from a work-related injury. On the basis of these factors, an employee's disability retirement allowance will be in an amount which is between 33 1/3 and 90 percent

of the employee's final compensation on the effective date of retirement.¹ The disability retirement allowances which are paid to City employees are administered through the Retirement Services Division of the Employees Retirement System, rather than through the Workers Compensation Division. In addition to disability retirement allowances, the City Charter authorizes ongoing medical treatment for Tier I Police and Fire department employees who are retired for disability, if the disability resulted from a work-related injury. Providing medical treatment in cases of industrial disability retirements is discussed in further detail below.

Table 4.1 reports total expenditures over the last three fiscal years for claims which are now classified by the WCD as industrial disability retirements. Table 4.2 identifies the City's cost of medical and disability benefits in these claims according to the date of the injury which resulted in the employee's retirement.²

The City has a financial interest in the administration of disability retirement benefits. The cost to the City can be impacted by:

- (1) The determination of whether an employee is "incapacitated for the performance of duty," based in part on the availability of light duty assignments, which determines whether an employee can continue to perform services for the City or must be retired;
- (2) The effective date of an employee's retirement, which determines the amount of compensation which is payable by the City in the form of salary, sick leave, vacation leave, or pension benefits; and,
- (3) The method chosen to deliver health care services to employees who are granted industrial disability retirements, and the cost of medical services provided to retired employees.

As discussed below, the determination of whether an employee is incapacitated for the performance of duty is not made consistently among City departments, and the WCD has not implemented formal standards for determining the effective date of an employee's disability retirement. In addition,

¹ For Tier I public safety employees (those who were hired before November 1976,) final compensation is defined as the employee's salary at the time of his retirement. For Tier II public safety employees and miscellaneous employees, final compensation is based on the employee's average salary during any consecutive three year period in which the average compensation was the highest. "Final compensation" is therefore higher for Tier I employees than for other employees, all else being equal, since an employee's most recent salary is his highest salary, and for Tier I employees this amount is not averaged with the salary paid in prior years.

² Some of these expenditures may have been incurred while the employees were receiving workers compensation benefits, rather than disability retirement benefits. For instance, indemnity for lost wages is paid in workers compensation claims, but is not a disability retirement benefit. The medical expenditures reported in Tables 4.1 and 4.2 could have been incurred either in the employee's workers compensation claim or subsequent to the employee's retirement.

TABLE 4.1

**EXPENDITURES REPORTED IN WCD INDUSTRIAL
DISABILITY RETIREMENT CLAIMS, FY 1991 - FY 1993***

<u>Description</u>	<u>1990-91</u>	<u>1991-92</u>	<u>1992-93</u>
MEDICAL EXPENSES			
Doctors, dentists, clinics, anesthesiologists	391,832	370,561	339,023
Pharmacy, Orthopaedic Equipment or Appliances	169,854	164,565	205,567
Hospitalization, Emergency Room, Lab Tests	40,414	235,023	550,100
Physiotherapy from RPTS and Hospitals	144,443	432,938	42,442
Clinic or Hospital x-ray	1,096,855	795,756	216,813
Misc. medical expenses (nurses, ambulances, M/L evaluations, or health clubs)	226,216	270,336	274,949
Penalties for late payment	0	0	0
Out of pocket medical costs reimbursed	32,558	42,212	35,807
MEDICAL SUBTOTAL	2,102,172	2,311,391	1,664,701
INDEMNITY PAYMENTS			
Temporary Disability Indemnity	35,080	15,221	32,765
Full salary in lieu of indemnity	1,101,981	886,985	201,944
Permanent disability indemnity	36,460	58,219	10,827
INDEMNITY SUBTOTAL	1,173,521	960,424	245,536
OTHER EXPENDITURES			
Legal payments to claimants' attorneys	490	1,080	0
Vocational Rehabilitation and Case Management	12,118	16,238	10,009
TOTAL EXPENDITURES	\$3,288,300	\$3,289,133	\$1,920,245
Subrogation**	<u>(50,000)</u>	<u>0</u>	<u>(75,000)</u>
NET COST	\$3,238,300	\$3,289,133	\$1,845,245

* Table reports 1991-93 WCD expenditures for claims now classified as industrial disability retirements. These expenditures may include indemnity and medical costs paid while the claims were classified as workers compensation claims. Table excludes costs of disability retirement pensions.

** Financial recoveries from third parties.

TABLE 4.2

WCD MEDICAL AND INDEMNITY EXPENDITURES
Reported in Industrial Disability Retirement Claims*
FY 1991 - FY 1993

Medical Costs

<u>DATE OF INJURY</u>	<u>1990-91</u>	<u>1991-92</u>	<u>1992-93</u>
Prior to 7/1/84	\$1,637,291	\$1,867,939	\$1,357,307
7/1/84 - 6/30/85	14,878	9,672	7,814
7/1/85 - 6/30/86	29,936	10,718	18,445
7/1/86 - 6/30/87	6,058	5,678	3,983
7/1/87 - 6/30/88	21,207	15,070	12,273
7/1/88 - 6/30/89	122,154	69,978	53,101
7/1/89 - 6/30/90	79,081	25,703	58,472
7/1/90 - 6/30/91	191,566	173,928	46,548
7/1/91 - 6/30/92	--	132,704	79,144
7/1/92 - 6/30/93	--	--	28,113
Totals	\$2,102,172	\$2,311,391	\$1,664,701

Indemnity

<u>DATE OF INJURY</u>	<u>1990-91</u>	<u>1991-92</u>	<u>1992-93</u>
Prior to 7/1/84	\$3,226	\$24,509	\$17,776
7/1/84 - 6/30/85	4,022	0	0
7/1/85 - 6/30/86	3,127	6,259	0
7/1/86 - 6/30/87	60,642	20,137	0
7/1/87 - 6/30/88	13,864	8,080	0
7/1/88 - 6/30/89	23,972	(3,338)	0
7/1/89 - 6/30/90	417,942	96,133	(5,887)
7/1/90 - 6/30/91	617,747	431,705	12,672
7/1/91 - 6/30/92	--	376,940	165,181
7/1/92 - 6/30/93	--	--	55,794
Totals	\$1,144,541	\$960,424	\$245,536

* Table may include medical and indemnity expenditures made while claims were classified as workers compensation claims.

** Total reported cost of temporary disability indemnity over the last three fiscal years in claims now classified as industrial disability retirements = \$1,660,039.

the WCD's administration of health care benefits to employees who are retired for disability should be coordinated with the Health Service System, through the oversight of a Benefits Administrator in the Department of Human Resources.

Inequitable Administration of Disability Retirement Benefits

The Charter requires that a police officer or firefighter "shall be retired" if he "becomes incapacitated for the performance of his duty." According to two representatives of the City Attorney's Office, this language requires the City to approve the disability retirement of any police officer or firefighter who is unable to perform services for the Police Department or Fire Department, respectively. This provision has important implications with respect to the availability of light duty assignments in the Police and Fire Departments. If a light duty assignment is not available to a disabled employee, the employee is deemed to be "incapacitated for the performance of duty," and, under the Charter, must be retired, according to the City Attorney's Office.

As a result, the availability of light duty assignments in the Police and Fire Departments can be used by department managers to influence the eligibility of police officers and firefighters to retire on the basis of disability. WCD claims examiners and the City Attorney's Office report that the Police Department has generally made concerted efforts to place disabled officers in available light duty assignments, whereas the Fire Department has accelerated the use of the disability retirement provisions of the City Charter by failing to make light duty assignments available, thereby invoking the Charter requirement that public safety officers be retired when they are, "incapacitated for the performance of duty."

An analysis of 46 industrial disability retirements which were approved over the last three fiscal years shows that 41, or approximately 89 percent, were granted to employees of the San Francisco Fire Department. Of the remaining five, two were approved on behalf of deputy sheriffs, and three were approved for police officers, including one police officer who had sustained a gunshot wound.³

These statistics indicate that the incidence of disability retirements among Fire Department employees over the last three fiscal years is 12.7 times higher than the incidence of disability retirements among Police Department employees, and 19.5 times higher than the number of retirements granted to Sheriff's Department employees.⁴ In contrast, the Fire Department had 66 percent as

³ Sixty separate industrial disability retirement cases were reported based on dates of injury occurring between July 1, 1990 and June 30, 1993. However, 12 employees together accounted for 26 separate injuries, and so are counted as only 12 separate retirees. The remaining 34 injuries which had resulted in retirements pertained to 34 retirees. Thus there were a total of 60 injuries among 46 retirees. The existence of more than one "retirement" case for each of 12 retirees results from re-classifying more than one previous workers compensation claim as an "industrial disability retirement" after the employee retires.

⁴ Based on 1266 percent more disability retirements granted to fire fighters than to police officers (41 for fire fighters and 3 for police officers), and 1950 percent more disability retirements granted to fire fighters than to deputy sheriffs (41 for fire fighters and 2 for deputy sheriffs).

many employees as the Police Department, and 190 percent more employees than the Sheriff's Department, over the last three fiscal years.

If disability retirements had been approved for Police and Fire Department employees at the same rate, the Fire Department would have had only two disability retirements over the last three fiscal years, based on 66 percent of the number of Police Department retirements (of which there were three). Similarly, if disability retirements had been approved for Sheriff's and Fire Department employees at the same rate, the incidence of Fire Department retirements over the last three fiscal years again would have been only two, based on 190 percent of the number of Sheriff's Department retirements (of which there was only one). Instead, Fire Department employees were granted 41 disability retirements over the last three fiscal years, or 20.5 times the number which would have been granted (two) if Fire Department employees had been retired for disability at the same rate as Police and Sheriff's Department employees.

This indicates that the WCD and individual City departments have utilized highly inconsistent standards for the administration of disability retirement benefits over the last three fiscal years. We believe as plausible the explanation which has been provided by the City Attorney and WCD staff, that the Fire Department has encouraged retirements for disability on behalf of its employees by failing to provide alternative light duty assignments.

As noted above, the approval or denial of disability retirement applications is delegated under the Charter to independent hearing officers who are retained by the Employees Retirement System. However, hearing officers are not responsible to develop and implement light duty assignments as an alternative to disability retirement, but are only responsible to determine whether the employee has been incapacitated for the performance of duty. If light duty assignments are not available, the probability will increase that the hearing officer will approve the employee's disability retirement application.

The WCD should actively seek to redress such disparate treatment of City employees, rather than enabling individual departments to influence eligibility determinations for disability retirement benefits. Such intervention by the WCD would be consistent with Charter Section 3.671, which provides that the Employees Retirement System [and not individual departments] shall be the "sole authority and judge... as to the conditions under which members may receive, or continue to receive, benefits of any sort under the retirement system."

However, the WCD is not empowered to implement light duty programs unilaterally, which would provide an alternative to disability retirements. Rather, light duty policies are subject to collective bargaining with employee organizations and the terms of the City's memoranda of understanding with individual employee organizations. However, the Civil Service Commission has proposed a new Civil Service Commission Rule (Rule 35) concerning City-wide light duty programs as an alternative to disability leave (and, in this case, as an alternative to disability retirements). This proposed rule will require City departments to designate light duty assignments, and require the ERS to identify

employees who should be considered for light duty assignments. The proposed Rule 35 will be subject to future meet and confer proceedings with employee organizations before it can be adopted, according to the Civil Service Commission.

It is an inherent duty of the WCD to provide ongoing policy guidance and direction to City officials, the Civil Service Commission, and other City departments concerning the need for light duty assignments and for policies to ensure the equitable administration of retirement benefits to City employees. This responsibility is consistent with Charter Section 3.671, which requires the Retirement Board to, "discharge its duties with respect to the [retirement] system with the care, skill, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use..." The absence of comprehensive policy guidance in this area has resulted in the disparate treatment of City employees with respect to disability retirements, as evidenced by the approval of disability retirements for Fire Department employees at 20.5 times the rate of Police and Sheriff's Department employees over the last three years.

Cost effectiveness of light duty assignments and disability retirement benefits

The determination of an appropriate level of benefits for active public safety employees and for those who are injured in the course of public service is a significant policy area. There may be cost savings associated with the use of the Charter's disability retirement provisions to grant early retirements to public safety officers who are unable to perform their usual and customary public protection duties.⁵ To determine whether such savings could be realized, it would be necessary to compare the cost of disability retirement benefits, including medical services, which are administered by the Employees Retirement System, with the costs and benefits of employing police officers and firefighters in a modified duty capacity. The effect of disability retirement benefits on the City's retirement contribution rates should also be taken into account.

An analysis of the comparative costs of these benefits requires careful attention to the requirements of the Charter and workers compensation law, and to the delivery of health care services through the WCD and the Health Service System. However, the ERS has not provided meaningful policy guidance in this area to department representatives and City officials. In addition, the Employees

⁵ Assuming that the light duty assignment represents a productive service, the relevant cost comparison would be between (a) employing a public safety officer in a light duty capacity at full salary or (b) granting a disability retirement to the officer and obtaining alternative labor services, presumably at a lower cost, to perform the needed services. If alternative (b) were less costly than alternative (a), a disability retirement would be preferable to placing the officer in a light duty assignment.

Retirement System has not monitored the overall cost to the City of disability retirement benefits which are administered jointly by its Workers Compensation and Retirement Services Divisions.⁶

The Police Department has recently considered a change in light-duty policies in order to encourage the disability retirements of police officers who are currently in light-duty assignments. Such a modification of the Police Department's light duty policies would result in a larger number of disability retirements granted to police officers, whose pensions would be 50 percent to 90 percent of final compensation, and a decrease in salary costs which would be payable from the Police Department budget. Such a change in policy should be evaluated in terms of the costs and benefits of granting disability retirements to Police Department employees in lieu of light duty assignments. This is an example of a policy decision in which the City should receive specific analysis and guidance from the Employees Retirement System. In the event that workers compensation and disability retirement benefits are transferred to the Department of Human Resources, the recommended Benefits Administrator could assume this responsibility.

In summary, we believe that the WCD should assume a more active role in the administration of disability retirement benefits by:

- (1) Developing consistent standards for determining whether an employee has been "incapacitated for the performance of duty," including policy analysis and guidelines for the most appropriate use of light duty assignments within the Police and Fire Departments; and,
- (2) Monitoring the City's overall costs of disability retirement benefits, in order to analyze the costs and benefits of the City's disability retirement program.

Therefore, the proposed Benefits Administrator in the Department of Human Resources should recommend appropriate policies and standards for the use of light duty assignments as an alternative to disability retirement benefits, in order to ensure that disability retirement benefits are administered equitably and in the most cost effective manner. The proposed Benefits Administrator should report to the Mayor and the Workers Compensation Task Force concerning the performance of individual departments in making light duty assignments available to injured workers, the reasons for any restrictions on the use of light

⁶ Disability retirement cases are not fully distinguished from workers compensation claims in the WCD's computerized claims management system. As a result of re-classifying former workers compensation claims as disability retirements, the WCD cannot distinguish the amounts which were paid on behalf of employees as workers compensation benefits, from amounts which were paid as retirement benefits. In addition, some disability retirement cases are still maintained as workers compensation claims, and have not been re-classified as retirement cases. Of eight industrial disability retirements which were included in a sample of 100 claims reviewed by the Budget Analyst, two, or 25 percent were still coded as workers compensation claims in the WCD's claims management system.

duty assignments for any department or class of employees, and the effect of light duty programs on the City's overall disability retirement costs.

Effective dates of retirement

Opportunities to maximize full salary disability benefits before retiring

The WCD does not have an established procedure for determining the effective date of an employee's industrial disability retirement. Rather, the effective date of retirement is negotiated between the WCD and the employee. As a result, employees who ultimately will retire as a result of permanent disabilities are able to fully utilize applicable workers compensation temporary disability benefits before retiring. In the case of public safety officers, such temporary disability benefits consist of full salary for up to one year.

In the absence of established criteria to determine the effective date of an employee's retirement for disability, public safety officers are able to choose a retirement date which corresponds to the expiration of their full salary temporary disability benefits, as well as accrued vacation and sick leave. However, as noted above, disability retirement allowances are payable at only 50 to 90 percent of full salary. In addition, Civil Service Commission Rule 22.02(A)(5) provides that, "sick leave shall automatically terminate on the effective date of an employee's retirement."⁷ Thus, the approval of industrial disability retirements which are effective only after the employee's temporary disability and sick leave benefits have been exhausted increases the City's overall workers compensation costs.

However, according to the City Attorney, the WCD cannot require Tier I public safety employees (those hired before November 1, 1976) to retire on the basis of a permanent disability before they have exhausted their eligibility to receive twelve months of full salary temporary disability benefits. This interpretation is based on Charter Section 8.515, which states that any Tier I police officer or firefighter who is industrially disabled "shall become entitled... to disability benefits equal to and in lieu of his salary as fixed by the Charter, while so disabled, for a period or periods not exceeding twelve months in the aggregate..." The City Attorney states that, because Charter Section 8.515 "entitles" Tier I employees to full salary disability benefits for up to twelve months, the City may not terminate these benefits by requiring the employee to retire, even after the employee has applied for disability retirement and a medical determination has been made that the injury is permanent in nature and has reached its maximal improvement.

As a result, Tier I police officers and firefighters are entitled to receive the maximum twelve month period of temporary disability benefits before retiring on

⁷ Civil Service Commission Rule 22.02(B)(9) provides for the reimbursement of vested sick leave only for those employees who had met certain eligibility requirements prior to December 5, 1978. The vesting of sick leave should be based on established criteria, as set forth in CSC Rule 22.02(B)(9), and should not be accomplished by setting a retirement date which falls after accumulated sick leave has been exhausted by the employee.

the basis of a permanent disability. Our estimate of the City's cost resulting from this practice is discussed below.

The eligibility of Tier I police officers and firefighters to exhaust temporary disability compensation before retiring for permanent disability is in contrast to the provisions of Charter Section 8.516 concerning Tier II police officers and firefighters, who are only entitled to receive full salary disability benefits for up to twelve months, "or until such earlier date as he is retired, whether for service or disability." Similarly, Section 4850 of the Labor Code authorizes full salary benefits in cases of temporary disability for public safety officers other than police and firefighters (such as Sheriff's Deputies and District Attorney Investigators) who are members of the State Public Employees Retirement System. However, Labor Code Section 4850 also limits entitlement to such full salary benefits "for the period of the disability, but not exceeding one year, or until such earlier date as he or she is retired on a permanent disability pension."

Thus, except for Tier I police officers and firefighters, public safety officers are ineligible to receive full salary temporary disability benefits for the maximum twelve month period, if they are retired before the expiration of their full salary benefits on the basis of a permanent disability. For these employees, the effective date of retirement should be based on formal criteria developed by the WCD concerning the existence of permanent disability, and should not be negotiated with the employee in a way which permits non-Tier I public safety employees to exhaust their full salary temporary disability benefits before retiring.

Recommended standard for determining effective dates of retirement

Guidance in determining the effective date of an employee's industrial disability retirement is easily found in the workers compensation provisions of the State Labor Code.⁸ Under State law, temporary and permanent disability benefits are mutually exclusive; an employee cannot be temporarily and permanently disabled at the same time. In workers compensation claims, an employee becomes ineligible for continued temporary disability benefits, and becomes newly eligible for permanent disability benefits, at the time when a medical determination is made that an employee's condition is "permanent and stationary".⁹

⁸ Sections 8.547, 8.559-3, 8.571, and 8.585-3 of the Charter, which authorize disability retirements, contemplate the use of Labor Code provisions (specifically, the formal rating of the extent of disability) to establish the amount of an employee's disability retirement allowance. The discussion above extends the applicability of the State Labor Code in determining disability retirement benefits by suggesting a similar parallel approach to the determination of an employee's effective date of retirement.

⁹ Under Section 9735 of the California Code of Regulations, "a disability is considered permanent after the employee has reached maximum improvement or his condition has been stationary for a reasonable period of time." At the point when the employee's condition is permanent and stationary, a rating of the effect of the disability can be performed and appropriate permanent disability benefits, which may include future medical treatment, can be awarded through the WCAB.

The WCD should apply a similar standard to determine the effective date of an employee's industrial disability retirement: the effective date of retirement should be established based on the date when the injury is medically determined to be "permanent and stationary." This will prevent the expenditure of City funds for temporary disability and sick leave benefits to employees who are found to be "incapacitated for the performance of duty" based on a permanent disability.

Fiscal effect of maximizing full salary benefits before retiring

In 27 of the 46 disability retirements which were approved by the WCD in the last three fiscal years, temporary disability payments ranged between \$34,795 and \$69,853, and closely correspond to the full salary amounts which were payable as temporary disability compensation over a twelve month period to these 27 public safety officers. This suggests that, as reported by claims examiners and the City Attorney, temporary disability benefits were paid for the maximum one year period to these 27 employees before their disability retirements were effective. The total cost of temporary disability benefits paid in these 27 cases was \$1,365,836 over a three year period, or an average of \$455,279 per year.

This \$455,279 cost represents the estimated annual cost to the General Fund of providing temporary disability benefits over the maximum 12-month period of eligibility to 27 public safety officers who were subsequently retired on the basis of a permanent disability. If the effective date of retirement for these employees had been based on the date that the injuries were deemed to be "permanent and stationary," a maximum of \$455,279 in temporary disability payments which were made to these employees could have been avoided.¹⁰

We have not examined the medical reports which were obtained in these claims to determine the point in time at which the treating physician had determined that the employee's condition was permanent and stationary, and when the WCD had ascertained that the employee was "incapacitated for the performance of duty." However, we find it improbable that the temporary disability benefits which were paid in these claims should have so closely corresponded to the maximum twelve month eligibility period for full salary benefits for these 27 public safety officers, who were subsequently determined to have been permanently incapacitated by their injuries. In other words, it is an improbable coincidence that each of these injuries was regarded as temporary for a full twelve month period, before being re-evaluated as both (1) permanent in

¹⁰ We have assumed that the temporary disability benefits reported in these claims were paid before the effective date of retirement, and that temporary disability payments were discontinued once the employee was retired. However, the effect of reclassifying workers compensation claims into disability retirement claims is that it is not readily apparent that indemnity payments ceased on the effective date of retirement. More accurate records would reflect that no payments of temporary disability were made in claims classified as disability retirements, since the employee was not eligible to receive such benefits following his retirement. Instead, payments of temporary disability should appear only in the workers compensation claim records of each retired employee.

nature and (2) sufficiently severe to warrant retirement on the basis of the employee's incapacity for duty.¹¹

Some period of temporary disability leave following each injury would have been warranted, while the effects of the injury and the employee's incapacity for duty were being evaluated. However, we question whether a twelve month period of temporary disability at full pay was appropriate in 27, or 58.7 percent of all cases in which disability retirements were ultimately granted over the last three years. If instead, the effective date of retirement had been based on the date that the injury was permanent and stationary, and assuming that the disabling injuries were permanent and stationary within three to six months of the injury, we estimate that the WCD could have avoided 50 percent (six months) or 75 percent (9 months) of temporary disability benefits to the 27 employees who retired after receiving twelve months of temporary disability compensation. Based on the \$455,279 maximum cost identified above to provide temporary disability compensation over twelve months to employees who subsequently retired on the basis of permanent disability, we estimate annual savings to the WCD would be approximately 50 to 75 percent of this amount, or \$227,640 to \$341,459, if the effective date of retirement, based on the date that the disabling injury was permanent and stationary, fell within three to six months of the injury, on average.¹²

Of the 27 cases in which the employee received maximum temporary disability benefits before retiring, 26 pertained to the disability retirements of Tier I police officers and firefighters. As previously noted, the City Attorney has advised that the Charter entitles Tier I employees to the maximum twelve month period of full salary disability benefits, regardless of the date when the existence of the permanent disability which resulted in the employee's disability retirement was medically determined. However, in one case, full salary benefits were paid to a Tier II officer for the maximum twelve month period before the employee retired on the basis of permanent disability. As an increasing number of non-Tier I public safety officers become eligible for disability retirement, the WCD should take appropriate action to ensure that the effective date of each disability retirement is based on a medical determination that the disabling injury is permanent and stationary, and not negotiated with the employee in a way which permits the employee to maximize full salary disability benefits before retiring.

Whether Tier I public safety employees should continue to be entitled under the Charter to receive full salary temporary disability benefits for the maximum

¹¹ The subject injuries included: lower back strain while carrying water extinguisher; psychiatric stress; lower back and knee strain, slipped in water; knee pain while driving home; chest/throat pain; back sprain, slipped on wet floor; back strain, slipped on curb; hearing loss; low back sprain, lifting typewriter; ankle strain, slipped off back of engine; and others of similar nature. Five retirements were granted based on injuries caused by kicking doors, tearing down ceilings, or advancing hose lines.

¹² The City Attorney has noted that, in some cases, an employee's incapacity for duty could potentially be determined before an injury is permanent and stationary. This would occur if the nature of the injury clearly prevents the officer's return to duty, regardless of the point in time when maximum medical improvement is seen.

twelve month period before retiring on the basis of a permanent disability is a policy matter. Any change to the current benefit provisions would require an amendment of Charter Section 3.515.

Medical treatment for employees retired for disability

Medical treatment is specifically authorized under the Charter for Tier I public safety officers who are retired due to an industrial disability. The Charter also specifically provides that medical treatment to such retirees shall be "furnished in the same manner" as medical treatment provided to workers compensation claimants. The City Attorney reports that the WCD is also responsible to provide medical treatment for the work-related injuries of Tier II officers who are retired for disability, although this is not expressly stated in the Charter.¹³ As shown in Table 4.1, the WCD expended \$1,664,701 in 1992-93 to provide medical services for employees who had retired on the basis of an industrial disability.

According to the Health Service System, many retired City employees are enrolled in the self-insured City Health Plan. However, as noted in Section 7.4 of this report, there is currently no procedure in effect to reconcile WCD and HSS payment records to ensure that the City does not pay medical benefits for retired employees through both agencies. As discussed in Section 7.4, we believe the City should integrate its delivery systems for providing coordinated health care programs to City employees, regardless of whether the employee is active or retired, and regardless of whether an employee's retirement resulted from a work-related injury or some other cause. With respect to retired employees, the recommended Benefits Administrator in the Department of Human Resources should seek to integrate the provision of medical treatment for employees who are retired on the basis of an industrial disability with other employee health care benefits which are provided to retired employees by the Health Service System.

Conclusions

Disability retirement benefits are administered inconsistently due to differences in the availability of light duty assignments in different departments. The WCD has not evaluated the overall costs to the City of disability retirement benefits and the appropriate use of light duty programs as an alternative to disability retirements. Under the Charter, Tier I public safety employees are entitled to receive temporary disability benefits at full salary for up to twelve months, before retiring on the basis of a permanent disability. However, for non-Tier I public safety officers, the effective date of a disability retirement should be based on the date of a medical determination that the employee's disability is permanent and stationary, and not likely to improve.

¹³ Section 8.515 of the Charter requires the WCD to provide medical treatment for Tier I employees, but Section 8.516, which authorizes disability benefits for Tier II employees, does not address the issue of medical treatment.

Recommendations

The proposed Benefits Administrator recommended in Section 1.1 of this report should:

- 4.1 Recommend appropriate policies and standards for the use of light duty assignments as an alternative to disability retirement benefits, in order to ensure that disability retirement benefits are administered equitably and in the most cost effective manner;
- 4.2 Report to the Mayor and the Workers Compensation Task Force concerning the performance of individual departments in making light duty assignments available to injured workers, the reasons for any restrictions on the use of light duty assignments for any department or class of employees, and the effect of light duty programs on the City's overall disability retirement costs;
- 4.3 Monitor the City's overall costs of disability retirement benefits, in order to analyze the costs and benefits of the City's disability retirement program;
- 4.4 Seek to integrate the provision of medical treatment for employees who are retired for disability with other employee health care benefits which are provided to retired employees by the Health Service System.

The Employees Retirement System should:

- 4.5 Institute a policy which provides that the effective date of retirement for non-Tier I public safety employees who are retired due to an industrial disability will be established based on the date that medical evidence is obtained that the employee is permanently disabled, and that no further improvement in the employee's medical condition is anticipated.

Costs/Benefits

The development of comprehensive policies for the use of light duty assignments will prevent disability retirement benefits from being administered inconsistently on behalf of employees of different City departments.

By implementing these recommendations, the WCD will develop information which is needed to assess the City's overall costs for disability retirement benefits in order to guide further analysis of these benefits. If it is shown that light duty assignments or disability retirement benefits are more cost effective for the City, the development of a standard policy for the administration of benefits and the use of light duty programs would result in cost savings to the City, the amount of which will depend on the results of the analysis.

The use of a standard procedure for determining the effective date of an employee's industrial disability retirement would reduce the City's liability for workers compensation benefits which are paid before the employee retires. The Budget Analyst estimates that annual savings from such a policy could be \$227,640 to \$341,459, based on the number of disability retirements which were granted between 1990 and 1993.

Coordination or integration of health care benefits provided to retired employees by the WCD and the HSS would reduce the risk of duplicative payment for the health care benefits of retired employees.

SECTION 5: INFORMATION RESOURCES

Introduction

In this section, we evaluate the quality of WCD information resources. Information resources are needed (1) for the most cost effective administration of benefits, and (2) to provide management information which is needed to prepare budget estimates, analyze overall program costs, ensure accountability for program expenditures, and develop effective cost containment strategies.

This section includes two subsections:

Section 5.1: Management Information Systems

Section 5.2: Analysis of Program Data.

SECTION 5.1: MANAGEMENT INFORMATION SYSTEMS

- THE WCD HAS NOT IMPLEMENTED EFFECTIVE MANAGEMENT INFORMATION SYSTEMS:
 - (A) CLAIM AND EXPENDITURE INFORMATION IS MAINTAINED ON FOUR SEPARATE COMPUTER SYSTEMS, RESULTING IN UNNECESSARY DATA PROCESSING ERRORS, AND A LACK OF ACCURATE EXPENDITURE DATA FOR CLAIMS EXAMINERS;
 - (B) NO AUTOMATED VERIFICATION THAT A VALID CLAIM EXISTS IS REQUIRED BEFORE PAYMENTS ARE AUTHORIZED AND ISSUED TO BENEFICIARIES; AND,
 - (C) UNNECESSARY LABOR COSTS ARE INCURRED IN ORDER TO INPUT DATA AND TO RECONCILE DATA GENERATED BY DIFFERENT SYSTEMS.
- AS A RESULT, CLAIMS EXAMINERS LACK RELIABLE DATA CONCERNING CLAIMS, MISTAKES CAN OCCUR WHEN DETERMINING BENEFITS, AND QUALITY CONTROL EFFORTS ARE IMPEDED.
- THE WCD, IN CONSULTATION WITH THE CONTROLLER, SHOULD PREPARE A REQUEST FOR PROPOSAL FOR AN INTEGRATED MANAGEMENT INFORMATION SYSTEM, AND ANALYZE THE COSTS AND BENEFITS OF IMPLEMENTING SUCH A SYSTEM.
- THE IMPLEMENTATION OF AN INTEGRATED MANAGEMENT INFORMATION SYSTEM BASED ON COMPETITIVE SELECTION COULD REDUCE THE WCD'S ANNUAL EXPENDITURES FOR MANAGEMENT INFORMATION SERVICES, BELOW THE CURRENT LEVEL OF APPROXIMATELY \$741,000 ANNUALLY.

Effective management of the City's workers compensation program, including the identification of strategies to control costs, depends on the quality of the information concerning the causes, severity, duration, and costs of the City's workers compensation claims. The WCD has not established a unified management information system that provides accurate, timely and complete information. This section evaluates the WCD's current management information systems.

Computer Systems

The WCD uses four separate computer systems to manage claim and expenditure data. These systems are:

- (1) the Corporate Systems claims management system, the primary WCD computer system, consisting of a database of claim information, expenditure data, and claim statistics;
- (2) the Controller's WICS warrant issuance system, which is used to pay disability indemnity benefits to City employees;
- (3) the Controller's REM warrant issuance system, which is used to issue payments to vendors who provide services to the WCD, including medical service providers; and
- (4) the Reviewco medical bill review computer system, which is used to aggregate the invoices submitted by most vendors to the WCD, and to review medical charges for adherence to the Official Medical Fee Schedule.

The Corporate Systems computer system is designed as a comprehensive management information system, but it is not being utilized to its full capacity. According to the City's Risk Manager under the Chief Administrative Officer, the Corporate Systems computer system has the "technical capacity to do anything you want with the data," and Corporate Systems was described by a third party claims administrator as, "one of the most comprehensive risk management information systems available." These comments are in stark contrast to our experience and the experience of the WCD Office Manager in extracting meaningful data from the system, and to the comments of claims examiners, who variously described the system as, "just an electronic notebook," "just something to take notes," "from the Stone Age," "from the Dark Ages," and, "something that should come up to the 20th century."

Examples of inefficiency in the current design of the WCD's management information systems include the following:

- Corporate Systems is not used to generate payments based on direct input of benefit information by WCD staff. If this capability were used, accurate accounting records would be entered in claim files instantaneously. Instead, benefit information is transmitted in writing from claims adjusters, to claims processors (who manually prepare WICS "input documents"), to data entry operators (who input benefit information directly into the Controller's WICS payment system). WICS payment records are later transferred electronically to the Corporate Systems database. This circuitous route for payment information could be avoided if a single system were used to maintain claim information and to issue payments. Labor costs could be reduced, or existing staff could be used more efficiently, if

claims examiners were to input benefit information directly into the payment system.

- Indemnity payments to City employees are entered by WCD staff directly into the Controller's WICS payment system. However, the WICS system does not contain claim information, and therefore no automated verification is required that a valid claim exists before payments are authorized and issued to beneficiaries. Although the Corporate Systems database will later reject WICS payment records if a valid claim is not contained in its file, this occurs only after warrants have been generated and released through the WICS system.
- The Corporate Systems "vendor file" is not used, and therefore the database cannot aggregate payment information according to the payee. As a result, (1) claims examiners are not able to review total expenditures to a single vendor for cost control purposes, and (2) standard Corporate Systems management reports for monitoring total payments to individual vendors (for instance, to determine the average cost per claim for each vendor) are not available.
- The Corporate Systems medical bill review functions are not used. Instead, the WCD contracts with Reviewco for medical bill review services, at an annual cost of \$385,315. Payment information for medical bills is processed by Reviewco and transferred to the Controller's REM payment system for warrant issuance; REM payment records are then posted electronically to the Corporate Systems database. Basic accounting information concerning medical bills, including warrant numbers and payment dates, is truncated or posted inaccurately as a result of these data transfers.
- As a result of errors and omissions in electronic data transfers among four computer systems, the WCD does not have systematic access to its accounting records, and records which confirm prior payments to vendors cannot be easily identified.
- If payment records are rejected ("excepted") in the course of data transfers, WCD staff must evaluate the reason for the exception, and make appropriate accounting adjustments. As a result, staff time is expended which might not be necessary, and accounting errors are more likely to occur.
- Because minor modifications of data processing functions require the re-programming of up to four separate computer systems, the WCD does not have flexibility to modify its management information systems in response to changing information needs.

Information Deficiencies for Claims Administration

As a result of deficiencies in the WCD's management information systems, claims examiners have limited access to the information needed to monitor the status and progress of workers compensation claims. The deficiencies which we identified include the following:

- Narrative claim histories, which are entered into the Corporate Systems claims management system by claims examiners in order to document the facts and circumstances of a claim, are frequently deleted.
- Records which are maintained in the Corporate Systems claims management system do not provide adequate information concerning total claim expenditures. Descriptions of benefits are inaccurate, dates of medical treatment services are incomplete, and, in some cases, dates of prior payments are incorrect.
- Payment information transferred to the Corporate Systems claims management system from the Controller's WICS and REM payment systems lags six to eight weeks behind the date that payments were actually made. As a result, the claims management system does not accurately report the level and costs of benefits which have been provided to injured workers. Instead, claims examiners must obtain historical payment data from manual "pay cards" which are maintained by claims processors, and which are subject to loss.

As a result of these deficiencies, claims adjusters are unable to evaluate and monitor the propriety of claim expenditures based on an accurate accounting of benefits due. For instance, it is a simple fact that examiners cannot exert effective control over case developments when case notes which they have prepared over time are deleted from the claims management system.¹ Moreover, in the absence of accurate descriptive information, claims examiners were repeatedly observed to infer the nature of benefits which had been provided based on the amount of the City's financial payment.² Under these circumstances, the WCD cannot exert effective quality assurance and control over the appropriateness of benefits which are provided.

¹ Some case notes have been deleted intentionally by claims supervisors, while others have been deleted accidentally. Notes are deleted accidentally as the result of a delay in transmission of data from the Corporate Systems mainframe computer in Amarillo, Texas. If claims examiners input certain commands while data is being transmitted, case notes can be deleted.

² Rates paid for various categories of workers compensation benefits are fixed by State law. Thus, a permanent disability advance is paid at \$280 or \$288 per week, temporary disability is usually paid at \$336 per week, and vocational rehabilitation allowances are paid at \$246 per week. Since the claims management system provides an inadequate description of the benefit being provided, claims examiners must infer that a claimant received permanent disability, temporary disability, or vocational rehabilitation benefits according to whether the claimant received \$280, \$336, or \$246.

The WCD Office Manager works conscientiously to evaluate and improve the interface among these different computer systems. However, any significant change in the WCD's record keeping systems requires the re-programming of all four computer systems to allow new system interfaces. Coordination of several computer programmers has been ineffective, even when efforts to improve the system interfaces have been made.

WCD managers report that they have previously sought to integrate the WCD's claims management and warrant issuance systems, in order to systematize the WCD management information system. However, WCD managers state that proposals to issue warrants internally, rather than through the Controller's WICS and REM payment systems, have not been approved by the Controller, who is responsible for overseeing the City's financial records and payment systems. We believe that the Controller's concern for the integrity of the WCD's warrant issuance systems is well-founded and, as discussed in Section 5.2, we recommend that the Controller work with the WCD to integrate WCD payment systems with other WCD management information systems, subject to appropriate accounting controls.

A Fifth Computer System

The City has now added a fifth computer system for the maintenance of claim information by the third party administrator, the Noetics Group. The Noetics computer system currently has no interface with the WCD's Corporate Systems claims management information system. As a result, the City's claims data is now bifurcated, with approximately 50 percent of the City's claims data being maintained by the WCD in its Corporate Systems database, and approximately 50 percent being maintained in the Noetics computer system. Moreover, these systems differ in their design and reporting capabilities. Claims data derived from one system cannot necessarily be compared with claims data from the other system since the systems use different parameters for coding and reporting data. Evaluation of the performance of Noetics and comparisons with the WCD is therefore greatly inhibited.

The WCD's management information is deficient primarily because of past decisions by WCD managers or City officials to patch together several separate information systems for the workers compensation program, rather than to implement a comprehensive claims management database and payment system. As noted in Section 10 of this report, the Corporate Systems computer system was not procured through a Request for Proposal process, but was implemented based on the recommendation of Corporate Systems' parent company, Alexander & Alexander, which provided WCD management information systems through 1989.

In summary, the WCD does not have an effective management information system for workers compensation data, including claim costs. Even if such a unified claims management system were acquired for claims which are now administered by the WCD, the City would still confront claim information which is bifurcated between the Noetics Group and the WCD. This will prevent the City

from analyzing workers compensation efficiently, since significant labor costs could be incurred in reconciling data which should be easily generated from an integrated claims management information system.

The Controller is responsible for the integrity of the City's accounting and payment systems, and should retain oversight of the warrant issuance systems which are used by the WCD to issue benefit payments to City employees and to reimburse third parties, such as health care providers, for their services. However, these payment systems should be more carefully integrated with the WCD's claims management database, in order to enhance the WCD's accountability for its financial records and to improve the quality of program data.³ The Controller should assist the WCD to develop claims management and payment systems which include appropriate accounting controls, as determined by the Controller.

In conjunction with the Controller, the WCD should develop a plan for an integrated management information system for workers compensation which includes direct payment processing functions, and which unifies functions which are now performed by four separate computer systems. These functions are:

- (1) management of claim files in a central database;
- (2) the issuance of payments to workers compensation claimants;
- (3) the issuance of payments to vendors who provide services; and,
- (4) the review and analysis of medical bills.

The implementation of such a unified workers compensation claims management and payment system should be a high priority for the Mayor, the Board of Supervisors, the Controller, and other officials who are concerned with the efficiency and effectiveness of the City's claims administration practices and payment systems. Input should also be obtained for the Workers Compensation Task Force, which has responsibility under the Administrative Code to assist the Retirement System with developing workers compensation management information reporting capabilities.

The WCD expended \$283,737 in 1992-93 for the cost of management information systems, including \$217,613 for the services of Corporate Systems and \$66,124 for the Controller's Information Services Division. The cost of information management services provided by Noetics is currently included in the Noetics contract. The 1993-94 operating budget submitted by Noetics reflects costs of \$72,000 for the use of its computer system. The WCD currently pays \$385,315 annually for the medical bill review services of Reviewco. Therefore, the total annual cost of the City's existing management information systems is \$741,052.

³ Representatives of Corporate Systems state that the Corporate Systems warrant issuance system includes controls which require authorization or action by the Controller before checks will be issued. In addition, the Department of Social Services currently uses a management information system which permits eligibility workers to enter the amount of General Assistance and AFDC benefit payments directly in the database, but maintains the Controllers' authority to issue actual warrants. The WCD's claims data and payment systems can be better integrated without impairing the Controller's oversight and control of warrant issuance.

These costs are exclusive of the WCD's current salary costs of approximately \$85,189 for staff in the Bill Paying Unit, who perform data entry and data reconciliation functions for the WICS and REM payment systems, in addition to word processing and other duties.

The WCD should develop a Request for Proposal for an integrated management information and payment system. The Controller should assist in this effort in order to ensure that appropriate controls are maintained on the WCD's accounting and payment systems. Based on the results of competitive bidding, the WCD should compare the costs and benefits of such an integrated management information system with the annual cost of approximately \$741,052 for management information services which are currently provided by Corporate Systems, Reviewco, the Controller, and the Noetics Group.⁴

An integrated claims management system would enable the Division to evaluate and manage the City's workers compensation costs effectively, based on reliable expenditure data which is readily available to claims examiners, and expenditure data which can be linked with claims data in a single management information system. In addition, an integrated management information and payment system will provide stronger accounting controls, such as verification that a valid claim exists before checks are issued, the ability to track payments through a single computer system, accurate and accessible accounting records, and the elimination of labor costs associated with data input, correcting data processing errors, and managing computer system interfaces. Finally, an integrated claims management system would permit the WCD to modify its management information system in response to changing needs, without costly computer re-programming, and to continually improve the quality of management information which is available concerning the City's workers compensation costs.

Conclusions

The WCD has not implemented effective management information systems, in that necessary information is maintained on four separate computer systems. As a result, inefficiencies occur, accounting controls are weakened, claims examiners lack information needed to control benefit payments, and the WCD cannot efficiently adapt its management information system in response to changing needs.

⁴ The City of San Jose procured a new management information system for its workers compensation program in 1991. The cost of this system was \$205,297 to purchase hardware and to convert existing claims data. Operating costs of San Jose's new system are \$6,300 annually for software license fees and computer supplies. The system does not include medical bill review capabilities. Due to San Jose's significantly lower claims volume, San Jose's costs are not representative of what the City's cost would be for a new system, but do reflect that costs could be significantly lower than the WCD's current annual expenditures of \$741,052.

Recommendations

The WCD should:

- 5.1-1 Work with the Controller and the Workers Compensation Task Force to develop a plan for an integrated management information system for the WCD which unifies functions which are now performed by four separate computer systems, and which includes appropriate accounting controls, as determined by the Controller;
- 5.1-2 In cooperation with the Controller, prepare a Request for Proposal to solicit proposals for an integrated claims management information and payment system;
- 5.1-3 Based on the results of the competitive selection process, compare the costs and benefits of an integrated management information system with the current annual cost of approximately \$741,052 for management information services which are now provided by Corporate Systems, Reviewco, the Controller's Information Services Division, and the Noetics Group.

The Controller should:

- 5.1-4 Assist the WCD to develop a Request for Proposals and to consider proposals for an integrated claims management and payment system which includes appropriate accounting controls, as determined by the Controller.

Costs/Benefits

The WCD could incur additional labor costs to prepare a Request for Proposal for a comprehensive management information system. However, these costs could be offset if the results of competitive bidding resulted in the reduction of annual expenditures for management information services below the current annual costs of \$741,052. The elimination of unnecessary data entry procedures could result in lower WCD labor costs or the more efficient use of existing staff. Significant intangible benefits would result from the implementation of an integrated management information system, including stronger accounting controls, enhanced information resources for claims examiners for the control of claim costs, and flexibility to adapt and improve the information system according to changing information needs.

SECTION 5.2: ANALYSIS OF PROGRAM DATA

- THE WCD HAS NOT DEVELOPED SYSTEMS TO MONITOR IMPORTANT PROGRAM DATA CONCERNING THE CITY'S WORKERS COMPENSATION PROGRAM.
- THE WCD'S INACCURATE REPORTING OF PROGRAM COSTS INTERFERES WITH THE DIVISION'S ACCOUNTABILITY FOR CLAIMS MANAGEMENT, PREVENTS MEANINGFUL ANALYSIS OF FINANCIAL DATA, HINDERS ANALYSIS OF THE FINANCIAL IMPACTS OF SIGNIFICANT LEGISLATIVE CHANGES, AND PREVENTS THE USE OF INFORMATION TO CONTROL WORKERS COMPENSATION COSTS.
- THE WCD SHOULD GENERATE RELIABLE PROGRAM DATA FOR MANAGING THE WORKERS COMPENSATION PROGRAM, INCLUDING:
 - (A) THE UNDERLYING CAUSES OF WORKERS COMPENSATION CLAIMS;
 - (B) THE NUMBER OF CLAIMS AND OTHER ATTRIBUTES OF THE WORKERS COMPENSATION CASELOAD;
 - (C) THE AMOUNT OF CLAIM RESERVES ASSIGNED BY CLAIMS EXAMINERS ; AND,
 - (D) THE CITY'S ACTUAL COSTS FOR EACH MAJOR BENEFIT CATEGORY.
- IMPLEMENTATION OF THESE RECOMMENDATIONS WOULD RESULT IN INCREASED ACCOUNTABILITY FOR THE WCD, INCREASED ABILITY TO IMPLEMENT WORKERS COMPENSATION COST CONTAINMENT STRATEGIES, AND MORE ACCURATE BUDGETING FOR OPERATING AND CLAIM EXPENDITURES.

Effective management of the City's workers compensation program, including cost control strategies, depends on the quality of information concerning the causes, severity, duration, and costs of workers compensation claims. This information is needed to project annual workers compensation benefit costs, develop appropriate operating budgets for claims administration services, and identify effective cost containment strategies.

We have found that the WCD has not developed adequate, fundamental workers compensation data concerning:

- the causes and costs of workers compensation claims. This information is necessary to identify cost containment strategies, such as targeted accident prevention programs.
- the attributes of the total workers compensation caseload (including such basic information as the number of active claims). This information is necessary to develop an appropriate operating budget for the administration of claims.
- the City's expenditures for specific categories of workers compensation benefits. As a result, the WCD cannot project the effect of program changes or legislative reforms on the City's workers compensation costs.
- the expected costs of existing claims and trends in caseload growth, in order to develop reliable budget estimates of the City's annual costs for workers compensation benefits.

These deficiencies can be attributed to the following principal causes:

- The WCD lacks an integrated claims management information and warrant issuance system.
- The WCD has not developed adequate procedures for the collection of financial data concerning major workers compensation program areas.
- The WCD's claim management information system has not been designed and implemented to provide useful management information concerning specific attributes of the City's workers compensation caseload.
- Managers of the Employees Retirement System have failed to define the WCD's role in providing management information to City officials and other departments in order to control the City's workers compensation costs.

This section discusses the City's need for management information in the City's workers compensation program, and evaluates the performance of the WCD in developing this information.

Need for Improved Workers Compensation Data

Reliable program data should be used to manage workers compensation costs. For instance:

- **Department managers must have meaningful information concerning the causes and costs of workers compensation claims.**

The City currently allocates workers compensation costs to individual City departments. Department managers are expected to minimize the cost of claims, thereby increasing the level of funding for other purposes. However, the WCD has not developed reports concerning the causes, costs, and current status of the department's claims to department managers. Department managers are therefore unable to identify methods to control costs.

- **Effective accident prevention programs require data concerning the causes of workers compensation claims.**

Injury and accident prevention programs should be based on reliable data concerning the causes and circumstances of existing workers compensation claims. In fact, the WCD's claims management information system includes a "cause code" to identify the causes of work-related injuries. Using this code, causes of injuries can be analyzed. However, the WCD has not fully used this capability. Rather, the WCD uses only one cause code for all of the City's workers compensation claims. Standard reports which should be available from the claims management system concerning the causes of the City's workers compensation claims are therefore unavailable.

- **The operating costs of the workers compensation program must be based on the number of claims, and anticipated changes in the caseload over time.**

Budgeting for the operating expenditures of the City's workers compensation program requires information concerning the appropriate number of claims examiners. The appropriate number of claims examiners is determined based on the number of open, active indemnity claims. However, at the present time, the City cannot evaluate the resource needs of the WCD because the actual number of open, active, indemnity claims is currently unknown.¹

Both the operating budget for the WCD in 1994-95, as well as negotiations with the Noetics Group for the continued administration of claims after June 30, 1994, should depend on careful analysis of the City's total workers compensation caseload during the second half of 1993-94. In particular, as caseloads decline, budgeted expenditures for the City's workers compensation program should be

¹ Because it has not monitored the number of active indemnity claims over time, the WCD was unable to specify the number of such claims to be transferred to the third party administrator in May, 1993. Instead, the City's contract with the Noetics Group specified that the contractor was to review the claims assigned, in order to determine whether each claim was active, passive, or ought to be closed.

reduced accordingly. The Mayor's Office should submit a proposed 1994-95 budget for workers compensation claims administration services which reflects the number of claims adjusters needed to administer the City's open, active, indemnity claims at a ratio of approximately 200 such claims per claims adjuster.

Although the City's total caseload is expected to decrease over time from its level on June 1, 1993, when the Noetics Group commenced operations, no mechanisms have been developed to monitor the decline in caseloads in the current fiscal year, nor to develop budget estimates for fiscal year 1994-95 based on reliable caseload statistics.

For this reason, the Mayor's Office, with the assistance of the Workers Compensation Task Force, should immediately take action to obtain reliable monthly statistics from the WCD and the Noetics Group concerning the City's workers compensation caseload in the second half of 1993-94. In particular, caseloads should be evaluated to determine the number of claims which are:

- (1) Active indemnity claims;
- (2) Claims open only to provide "future medical" benefits;
- (3) Claims open only to provide workers compensation "life pension" benefits;
- (4) "Medical-only" claims.

In addition, the WCD and the Workers Compensation Task Force should establish standards for the reporting of WCD caseloads on a monthly basis. These statistics should include, but not be limited to:

- (5) The number of new claims opened every month;
- (6) The number of claims closed every month; and,
- (7) The number of claims denied every month.

This recommendation was previously made by Warren, McVeigh, and Griffin in 1990, but has not been implemented by the WCD.

- **The City's annual costs for workers compensation benefits should be based on claim statistics, claim trends, and the appropriate use of claim reserves.**

In recent years, workers compensation claim costs have been consistently underbudgeted. The ERS requested a supplemental appropriation of \$1.7 million for FY 1990-91 and \$5.9 million for 1991-92. On December 2, 1993, the Controller reported that workers compensation General Fund expenditures may be underbudgeted by \$3 to \$5 million in the current 1993-94 fiscal year, but that, "data currently available is not adequate to project the amount of the overrun with certainty."

Budgeting for the annual cost of workers compensation benefits should be based on reliable information concerning:

- (1) overall trends in caseload growth;
- (2) the cost of new claims compared to more mature claims;
- (3) the cost of disability retirement benefits, which are not currently distinguished from budgeted amounts for workers compensation benefits;
- (4) legislative changes that affect the cost of specific benefits; and,
- (5) the amount of reasonable claim reserves (representing expected future costs) that have been assigned by claims examiners.

The WCD currently does not monitor this information. The WCD should develop procedures to collect and analyze each type of information listed above in order to provide realistic budget projections of the City's annual expenditures for workers compensation benefits.

Reserving Techniques

Under State law, the WCD is required to establish and continually revise claim reserves, based on the specific medical and factual developments in each claim. A claim reserve represents the claims examiner's estimate of the total future cost of each claim. Taken together, these reserves represent an estimate of the costs to be incurred by the City in future years for existing claims.

Reserving techniques used by the WCD are haphazard. We reviewed many claims in which actual claim expenditures have already exceeded the established reserves. In 1990, Warren, McVeigh, and Griffin reported the following deficiencies related to the WCD's reserving practices:

- There were inadequate reserves on approximately ten percent of the files.
- In many open cases, actual expenditures had already exceeded total estimated costs.
- There was insufficient emphasis on adequate reserves.
- Many reserves were posted on the wrong cases.
- A thorough reserve analysis was needed.

We have seen nothing to indicate that reserving techniques have been improved since the time of the Warren, McVeigh and Griffin's 1990 audit. Therefore, this previous recommendation to conduct a thorough reserve analysis should be implemented and included in the WCD's strategic plan. The WCD should: (1) develop standard procedures for the maintenance of reserves by claims examiners; (2) develop standard management reports for the analysis of claim

reserves; and (3) use aggregate claim reserve data to develop annual budget estimates for workers compensation costs.

Monitoring the Costs of Specific Types of Benefits

The Employees Retirement System reports the WCD's annual expenditures according to several major categories of workers compensation benefits: temporary disability, permanent disability, legal costs paid to private attorneys, vocational rehabilitation services, and subrogation. (Subrogation is the recovery from third parties of certain workers compensation costs, such as medical costs associated with motor vehicle accidents.) However, a review of the WCD's accounting systems reveals that these categories do not accurately reflect the City's costs for different categories of workers compensation benefits in major program areas. Rather, the WCD's actual accounting procedures have resulted in the aggregation of expenditures that should be reported separately, and in the inaccurate reporting of significant program costs. For instance:

- Permanent and temporary disability benefits have been paid under the category of "temporary disability;"
- Fees paid to the Medical Coordinator are included under the category of "vocational rehabilitation," although the Medical Coordinator does not provide vocational rehabilitation services;
- Other vocational rehabilitation benefits are classified as "temporary disability" and "medical services," and not under the category of "vocational rehabilitation."

Although the total annual expenditures reported by the WCD are probably correct, the WCD has over-reported its expenditures for temporary disability, under-reported its expenditures for permanent disability, and lacks valid information concerning the cost of vocational rehabilitation programs. In other words, the WCD has not linked its financial records to specific program areas, and in this manner, is neglecting to manage the City's workers compensation costs.

Because the WCD has not monitored the cost of specific types of workers compensation benefits, the Division will be unable to, (1) estimate the effect of programmatic or legislative reforms on workers compensation costs, and (2) monitor trends in the City's workers compensation caseload. For instance:

- Increase in Benefit Payments
Compensation for temporary disability indemnity will increase a total of 46 percent over the next three years.² However, since the WCD has not fully distinguished its expenditures for temporary disability benefits from permanent disability benefits, it cannot estimate the effect of these rate increases on the City's future costs for temporary disability benefits.
- Financial Costs of Permanent Injuries
Since the WCD has under-reported its expenditures for permanent disability benefits, the City cannot assess the financial impact of work-related injuries that result in permanent disabilities.
- Effect of New Expenditure Limits
Under new State legislation, vocational rehabilitation benefits will be capped at a maximum amount of \$16,000 per employee. However, the WCD does not maintain program data concerning the City's costs for vocational rehabilitation benefits, and cannot assess the impact of this new cost containment effort on the City's vocational rehabilitation costs.
- Analysis of Litigated Claims
The WCD uses Corporate Systems "legal codes" to categorize the status of litigated claims inconsistently. As a result, the cost of litigated claims cannot be analyzed to identify factors that contribute to the higher costs associated with these claims.
- Analysis of Financial Settlements
The WCD does not utilize the Corporate Systems' capacity to identify claims that have resulted in a financial settlement. This information should be available to: (1) monitor the total cost of financial settlements; (2) assess the performance of individual claims examiners in settling claims; and (3) provide examiners with complete information concerning prior awards for the appropriate determination of financial strategy for later injuries. This deficiency could be corrected through the appropriate use of "award" codes in the Corporate Systems database.
- Disability Retirements
The WCD has not developed procedures to distinguish disability retirements from workers compensation claims fully. As a result, the costs of these two programs cannot be distinguished. In addition, "workers compensation costs," which are allocated to individual department budgets, also include the costs of disability retirement benefits. In order to analyze the discreet cost to the City of disability retirement benefits, the WCD should develop procedures for appropriately coding workers compensation and disability retirement claims.

² The weekly compensation rate for temporary disability benefits will increase from the current rate of \$336 to \$406 on July 1, 1994, to \$448 on July 1, 1995, and to \$490 on July 1, 1996, for a total increase over three years of 45.8 percent.

In summary, the WCD's inaccurate reporting of program costs:

- Prevents meaningful analysis of financial data concerning specific program areas;
- Hinders analysis of the financial impacts of significant legislative or program changes; and,
- Prevents the use of program data to develop effective cost containment and accident prevention strategies, such as the prevention of permanent injuries.

Developing Program Data

The WCD should take immediate action to identify workers compensation program data which will be compiled and reported on a regular basis. This information should include data which has been discussed above, including:

- (1) Regular reports to departments concerning each department's workers compensation claims;
- (2) Reports concerning the underlying causes of the City's workers compensation claims;
- (3) The number of claims, including active indemnity claims as distinguished from other claims, and changes in the caseload over time;
- (4) Overall benefit costs according to dates of injury, in order to project the growth or decline of expenditures over time;
- (5) The cost of disability retirement benefits, which should be distinguished from workers compensation benefits administered by the WCD;
- (6) Accurate reports concerning total costs for different workers compensation benefits, including permanent disability, temporary disability, medical expenses, and vocational rehabilitation services; and,
- (7) Claim reserves which have been established by claims examiners to reflect the expected future cost of existing claims.

Some of this information is dependent upon the quality of the WCD's accounting and payment systems, while other information simply requires the encoding of data in standard formats in the Corporate Systems claims management database.

In Section 5.1 we have recommended that the WCD institute a competitive selection process for a management information system that will integrate its claim information with accounting and payment systems. We believe that such a system is necessary if the WCD is to provide accurate, timely, and meaningful data concerning the City's workers compensation program in the most efficient manner. However, much of the recommended program data can be extracted from the Corporate Systems database at the present time. Regardless of which specific computer systems are used, the quality of workers compensation program data will depend heavily on the priorities which are assigned by WCD managers to compiling and disseminating the needed program data.

Even before a new system is or may be procured, the existing Corporate Systems database should be modified to provide enhanced program data. To accomplish this, the WCD should analyze the current capabilities of the Corporate Systems database and make appropriate modifications. Corporate Systems representatives have expressed a high degree of interest in assisting the WCD in this effort. However, this task has been delegated by WCD managers to the WCD Office Manager, whose other duties in managing the Bill Paying and Central File units have impeded the development of comprehensive management reports.

Information is also needed from the computer system now being used by the Noetics Group, and efforts should be made to reconcile data and reporting formats which are used by the two systems.

To rectify this situation, the WCD should assign a qualified individual to develop enhanced workers compensation program data. The appointed WCD representative should work with the Workers Compensation Task Force, the Risk Manager, the Noetics Group, Corporate Systems representatives, and the WCD Office Manager to undertake improvements in the quality of the City's workers compensation program data. In particular, these efforts should include:

- (1) Thorough analysis of the type of data which is currently needed for management purposes within the WCD and by outside department managers and City officials.
- (2) Developing procedures to identify, organize, encode, and enter claims data in the Corporate Systems claims management system according to comprehensive WCD guidelines for the management of information; and,
- (3) Developing standard reporting formats for the WCD and the Noetics Group to convey accurate information to WCD managers, department representatives, and City officials concerning the costs, causes, duration, and other important attributes of the City's workers compensation claims.

The WCD should designate the employee who will perform these functions, and request additional funds, if necessary, to appoint a qualified individual for this purpose. However, given that the appropriate staffing level for the WCD

cannot be ascertained in the absence of comprehensive program data, the WCD should also submit specific justification for any new position which is proposed to perform these functions, including a statement of why these functions could not be performed by existing WCD managers or supervisors.

Conclusions

The WCD has not developed management information which is needed concerning the City's workers compensation program. Such program data is needed to analyze the City's costs for different types of benefits, to enhance accountability for the WCD's administration of claims, and to project the future costs to the City for claims administration services and for workers compensation benefits. The current lack of program data interferes with systems of accountability, prevents meaningful analysis of financial data, hinders analysis of the financial impacts of significant legislative changes, and prevents the use of program data to develop effective cost containment and accident prevention strategies.

Recommendations

The WCD should:

- 5.2-1 Prepare monthly statistical reports to reflect the number of active indemnity, "future medical," "life pension," and "medical only" claims, as well as the number of new claims filed, claims closed, and claims denied;
- 5.2-2 Develop standard procedures for the maintenance of claim reserves by claims examiners, and utilize claim reserve data to develop annual budget estimates for the City's workers compensation costs;
- 5.2-3 Identify workers compensation program data which will be compiled and reported on a regular basis;
- 5.2-4 Assign a qualified individual to work with the Workers Compensation Task Force, the Risk Manager, the Noetics Group, Corporate Systems representatives, and the WCD Office Manager to develop enhanced workers compensation program data. The appointed WCD representative should identify the type of data which is currently needed for management purposes within the WCD and by outside department managers and City officials;
- 5.2-5 Ensure that claims data is identified, organized, encoded, and entered in the claims management system according to established guidelines for the management of information; and,

- 5.2-6 Develop standard reporting formats which convey accurate information to WCD managers, department representatives, and City officials concerning the costs, causes, duration, and other important attributes of the City's workers compensation claims.

Costs/Benefits

There would be no costs associated with the implementation of these recommendations. Implementation of these recommendations would result in increased accountability of the WCD, increased ability to implement workers compensation cost containment strategies, and more accurate budgeting of operating and claims costs.

SECTION 6: CONTRACTING PROCEDURES

- THE WCD EXPENDS MORE THAN \$9.6 MILLION ANNUALLY FOR THE SERVICES OF INDEPENDENT CONTRACTORS. HOWEVER,
 - (A) MORE THAN \$6.3 MILLION IS EXPENDED ANNUALLY ON SERVICES WHICH WERE NOT PROCURED THROUGH COMPETITIVE MEANS;
 - (B) IN LIEU OF COMPETITIVE PROCEDURES, THE WCD HAS RELIED EXTENSIVELY ON INDEPENDENT CONTRACTORS TO PROCURE THE SERVICES OF OTHER INDEPENDENT CONTRACTORS;
 - (C) THE WCD HAS NOT ENTERED INTO WRITTEN CONTRACTS WITH SOME OF ITS INDEPENDENT CONTRACTORS; AND,
 - (D) STATEMENTS BY WCD MANAGERS REFLECT A MISUNDERSTANDING CONCERNING THE WCD'S RESPONSIBILITY TO PROCURE SERVICES COMPETITIVELY IN ORDER TO MINIMIZE TOTAL COSTS TO THE CITY.
- AS A RESULT, THE WCD HAS NOT ENSURED THAT MORE THAN \$6.3 MILLION IN CONTRACTUAL SERVICES ARE PROVIDED IN THE MOST COST EFFECTIVE MANNER.
- THE WCD SHOULD CONDUCT A THOROUGH ANALYSIS OF ALL SERVICES WHICH ARE CURRENTLY PERFORMED BY INDEPENDENT CONTRACTORS, AND:
 - (A) ABOLISH UNNECESSARY OR DUPLICATIVE SERVICES;
 - (B) EMPLOY CIVIL SERVICE POSITIONS FOR SERVICES WHICH ARE PERMANENT IN NATURE, INCLUDING VOCATIONAL REHABILITATION SERVICES;
 - (C) IMPLEMENT COMPETITIVE SELECTION PROCEDURES FOR ANY SERVICES WHICH WILL CONTINUE TO BE PERFORMED BY INDEPENDENT CONTRACTORS; AND,
 - (D) ENTER INTO WRITTEN CONTRACTS WITH ALL OF ITS INDEPENDENT CONTRACTORS.

The WCD purchases services from a number of independent contractors. However, in most cases, these services have not been procured through competitive selection procedures. This section analyses the WCD's performance with using competitive bidding to secure the services of independent contractors.

The independent contractors who provide services for the WCD are as follows:

Table 6.1

WCD Independent Contractors

<u>Contractor</u>	<u>Description of Services and Procurement Process</u>	<u>Annual Cost</u>
The Noetics Group	Provides claims administration services. The contract was competitively bid in 1992-93.	\$2,824,625
Saint Francis Memorial Hospital	Provides initial medical treatment to most injured City workers. The total annual cost of services is not limited by contract, and is not monitored by the WCD, but is estimated at \$2.5 million. The contract was not competitively bid.	2,500,000
Referral physicians	Provide medical treatment to injured workers upon referral by SFMH pr WCD staff. Referral physicians are not under contract, and the total annual cost of their services is not monitored by the WCD, but is estimated at \$2.5 million.	2,500,000
Alexander & Alexander	Subcontracts with Corporate Systems of Amarillo, Texas to provide the WCD's leased claims management information system. Contract was not competitively bid.	218,000
Reviewco	Provides medical bill review services to reduce medical fees to the Official Medical Fee Schedule. The contract was last competitively bid in 1987-88.	385,315
	Administers the CompAlliance Preferred Provider Organization. This portion of the contract has not been competitively bid.	350,000
Medical Coordinator	Provides medical case management services, at an hourly rate of \$53. There is no written contract, and the total annual cost of services is not monitored by the WCD, but is estimated at \$60,000.	60,000
Workers Compensation Casualty Services	Provides utilization review of inpatient services. There is no written contract; WCCS was selected by the Medical Coordinator.	14,140
Future Diagnostics	Provides Magnetic Resonance Imaging diagnostic services at a cost of \$750 per procedure. Future Diagnostics was selected by the Medical Coordinator.	364,528
Home care agencies	Provide home care and outpatient alternatives to continued hospitalization. These providers were selected by the Medical Coordinator.	293,685

continued next page

Table 6.1. continued

Ayers & Company	Serves as WCD Qualified Rehabilitation Representative at an hourly rate of \$50. There is no written contract, and the total annual cost of services is not monitored by the WCD, but is estimated at \$74,740. The services were not competitively bid.	74,740
Vocational rehabilitation counselors	Develop rehabilitation plans for injured workers. Rates are subject to a vocational rehabilitation fee schedule. There is no written contract, and the total annual cost of services is not monitored by the WCD. The services were not competitively bid.	unknown
Total Cost of Services		\$9,585,033*
* Net of vocational rehabilitation service providers, whose total annual charges are not monitored by the WCD.		

As shown above, the WCD generally has not utilized competitive bidding to secure the services of independent contractors, does not monitor the cost of services provided by independent contractors, and, in some cases, has not entered into written agreements with the contractors who provide services. Of the \$9.6 million in WCD contract services shown above, approximately \$6.3 million represents the costs of services which were not procured through competitive procedures.

In this section, we discuss the selection procedures which were employed by the WCD to retain the services of its principal independent contractors.

Corporate Systems/Alexander & Alexander

The WCD entered into a contract with Alexander & Alexander on January 12, 1983 to provide a claims management information system. In approximately 1989, Alexander & Alexander informed the WCD that it could no longer provide contract services. On August 14, 1989, the WCD entered into a new contract with Alexander & Alexander, which provides that contract services would be performed by Corporate Systems of Amarillo, Texas, a sub-contractor of Alexander and Alexander.

Rather than submitting the management information system to competitive selection in 1989, the WCD accepted the recommendation of Alexander & Alexander that services be provided by Corporate Systems. The current contract for the services of Corporate Systems is therefore actually a sub-contract, whereby Alexander & Alexander was granted permission by the WCD to sub-contract with Corporate Systems in order to provide the City's leased management information system.

As discussed in detail in Section 8 of this report, the current claims management information system is not being used to its full capacity, and the WCD lacks an integrated system to manage claim and expenditure data. In Section 8, we have recommended that a Request for Proposal for the WCD's management information system be prepared as soon as possible.

Vocational Rehabilitation Services

Under the Labor Code, the WCD must provide a Qualified Rehabilitation Representative (QRR) to advise injured workers of their eligibility for vocational rehabilitation benefits. Until recently, a consultation between the QRR and qualified injured workers was required after the first 90 day period of temporary disability. Effective January 1, 1994 such a consultation is no longer required by law.

The WCD's rehabilitation representative, Ayers & Co., is an independent contractor which has performed QRR services since 1989. However, the WCD did not engage in competitive procedures to secure the services of the QRR. Rather, Ayers & Co. was retained on the basis of the owner's prior acquaintance with the Division Manager, and the firm's availability to provide services which were needed by the WCD at the time that Ayers & Co. was retained. There is no written agreement between Ayers & Co. and the WCD; rather, the QRR submits charges on a case by case basis, which are paid at a current hourly rate of \$50. The Ayers & Co. representative, who works on-site at the WCD, reports that the City is the only client of Ayers & Co.

The WCD does not monitor either the total or average cost of the vocational rehabilitation benefits which are provided by the QRR to City employees. When asked to provide financial data concerning vocational rehabilitation benefits, the Division Manager directed the Budget Analyst to Ayers & Co., which maintains all financial and statistical information related to the City's vocational rehabilitation programs, according to the Division Manager. In the opinion of the Budget Analyst, it is wholly inappropriate for the WCD to have delegated complete oversight of vocational rehabilitation benefits to the independent contractor who has been retained to provide such services, without any oversight or accountability on the part of the Department.

The WCD is required to develop written vocational rehabilitation plans for injured workers who are found to be eligible for vocational rehabilitation benefits. These plans are not developed by the QRR, but are instead developed by vocational rehabilitation counselors, to whom employees are referred by Ayers & Co. The WCD has not participated in the selection of vocational rehabilitation counselors, and, as noted above, does not monitor the nature or the cost of specific vocational rehabilitation plans which are developed by the rehabilitation counselors. The invoices of rehabilitation counselors are not reviewed by WCD staff, but are submitted by Ayers & Co. directly to WCD claims processors, who instigate payment through the WICS payment system.

The State Legislature has recently enacted major changes to the Labor Code concerning the provision of rehabilitation benefits. In view of these changes, the WCD should re-evaluate the scope of rehabilitation services which are needed for the City's workers compensation program. This review should be performed as part of the strategic plan for the City's workers compensation program, and should include consideration of the role of the QRR in developing a modified duty program for injured City workers, as discussed in Section 3.2.

In addition, since vocational rehabilitation services are not temporary in nature, but are defined under State law as a "duty of the employer," the WCD should add a permanent Civil Service position to perform the duties of the Qualified Rehabilitation Representative. Civil Service classifications currently include a Class 2566 Rehabilitation Counselor, at a maximum annual salary of \$45,414. With mandatory fringe benefits of 18 percent, we estimate that the total annual cost of a Civil Service Qualified Rehabilitation Representative would be \$53,589. In contrast, the WCD reports that Ayers & Co. was paid approximately \$74,740 in calendar year 1992. At the Ayers & Co. hourly rate of \$50, we estimate that the QRR performed approximately 1,495 hours of service in 1992, equivalent to approximately 72 percent of a full time equivalent position. Therefore, we estimate that the WCD could save approximately \$21,151 annually by retaining a Civil Service employee to perform QRR services (\$74,742 paid to Ayers & Co. compared to the annual cost of only \$53,589 for a full time Civil Service position), while also obtaining an additional .28 FTE of QRR services.

After the WCD has assessed the scope of vocational rehabilitation services which are needed, it should also (1) request Civil Service positions, if needed, to perform vocational rehabilitation counseling services, including the development of mandated vocational rehabilitation plans, or (2) select vocational rehabilitation counselors on the basis of competitive selection procedures, if the volume of required services is not sufficient to support permanent Civil Service positions.

Saint Francis Memorial Hospital

Between approximately 1972 and 1982, Saint Francis Memorial Hospital (SFMH) provided space and facilities for the operations of the City's workers compensation program, although medical staff, including the physicians who treated the City's injured workers, were City employees who operated on the SFMH premises. Prior to 1972, the workers compensation program utilized the services of San Francisco General Hospital.

In December, 1981, SFMH submitted a proposal to provide occupational health services for City workers to the Employees Retirement System. This proposal was accepted by the ERS in February, 1982 without benefit of a competitive selection procedure.

Since July 1, 1982, or for more than eleven years, the ERS has contracted with SFMH to provide medical services to City employees through the hospital's occupational health clinic, the Franciscan Treatment Room, utilizing the services of SFMH physicians and other staff. Under the contract, SFMH also provides

other medical services in addition to consultations provided through the Franciscan Treatment Room (FTR). These services include emergency room visits, ancillary services such as clinical laboratory and diagnostic radiology procedures, physical therapy, and inpatient and outpatient surgeries.

The WCD reports that 80 to 90 percent of all injured City workers receive initial treatment at the Franciscan Treatment Room or the SFMH Emergency Room. However, the hospital generally does not treat patients for more than 60 to 90 days, after which they are referred to a treating physician selected from a list of referral physicians in a variety of medical specialties who have been selected for the referral panel by SFMH administrators. (The services of the referral physicians are discussed in more detail below).

The most significant programmatic aspects and quality control procedures which were outlined in the hospital's original proposal to provide occupational health services have been abandoned over the period of approximately 12 years since the ERS first contracted for the services of the SFMH occupational health clinic. For instance:

- Hours of operation of the occupational health clinic would be from 7 a.m. to 7 p.m. on weekdays, and from 7:30 a.m. to noon on Saturdays. According to the current contract between the ERS and SFMH, the FTR's hours of operation are **8:00 a.m. to 5:00 p.m.** Monday through Friday.¹ However, the Division Manager reports that the current hours of operation are **8:00 a.m. to 4:00 p.m.**, while the claims supervisor who serves as the WCD liaison to SFMH reports that the current hours of operation are **8:00 a.m. to 4:30 p.m.**, Monday through Friday.
- A computerized report of claim statistics was proposed to be developed by SFMH for use by the City. These statistics were to include the number of visits made by an injured City employee to the clinic, the patient's complaint, the physician's diagnosis, a treatment plan, and a record of the disposition of the patient. These records were to be made available to the WCD and to City departments. At the present time, the SFMH submits a monthly report of the number of initial and follow-up visits to the Franciscan Treatment Room, and individual "patient control slips" which reflect the employee's disability status following each visit. In addition, the SFMH proposed to institute, "ongoing statistical reporting to analyze the cost per injury to ensure that costs fall within proper and established norms." No such reporting is currently provided, nor is such analysis independently performed by the WCD.
- In addition to services provided through the occupational health clinic, the original SFMH proposal reflects that the use of "ancillary services" at the hospital (such as x-rays, pharmacy, and laboratory services), would be "constantly monitored by the [hospital's] administrative coordinator in conjunction with the WCD, to ensure competitive pricing." These services

¹ When the FTR is not open, City workers are directed to the SFMH Emergency Room.

are not being monitored by the WCD at the present time, and should be monitored independently of SFMH staff.

- The hospital proposed to maintain a daily log of visits by City employees to the Franciscan Treatment Room, and to provide a copy of this log to the WCD. The use of this log was discontinued in January, 1993 by the WCD claims supervisor who serves as the WCD liaison to the SFMH, because the supervisor reported that she, "didn't understand the need for it." The Division Manager reports that the log, which was the sole responsibility of the FTR, "slowed down our paperwork" and duplicated documentation which is maintained in individual claim files.²

In addition, a review of SFMH contract documents reveals that:

- The original 1982 contract did not specify any contract rates for SFMH services, but stated only that the WCD would reimburse the hospital "upon submission of acceptable invoices."
- The WCD does not have records of SFMH contract terms for the period July 1, 1983 to January 1, 1985.
- The current contract took effect January 1, 1985, and six contract extensions have been approved since that time.
- The current contract provides that, "compensation shall be as agreed from time to time by separate agreement." However, the WCD could not provide documentation of any fee agreements which were in effect between the ERS and SFMH during the period January 1, 1985 through July 1, 1987.
- Between July 1, 1987 and June 30, 1989, the fee agreement with SFMH specified fixed rates of compensation for office visits to the Franciscan Treatment Room and the SFMH Emergency Room. Except for fixed charges for routine office visits, no other hospital services were subject to specific discounts which were included in the contract terms.³
- Effective July 1, 1989, the contract terms were expanded to include a five percent discount from total charges for inpatient hospital services, a fixed \$275 fee for the evaluation of stress claims by a SFMH psychologist, and a

² Claims processors at the WCD are responsible to monitor the disability status of City workers to determine whether indemnity payments for lost wages continue to be justified. In order to do so, claims processors must verify that the employee has returned to work or that the physician has authorized continued disability leave. The FTR log provided a concise source of up-to-date information concerning the employee's disability status, and was extensively utilized by some claims processors in authorizing continuing indemnity payments. In the absence of the FTR log, claims processors are now required to research individual claim files for this information or to make personal telephone contact with the FTR concerning each individual employee.

³ As indicated in Section 7.1 (Table 7.2), office visits comprised only 10.8 percent of total SFMH contract costs of \$2,543,280 in 1992-93. As discussed in Section 7.1, the City should realize significant preferred provider discounts based on this total volume of service.

provision that x-ray and physical therapy charges submitted by SFMH would be adjusted according to "current practices." However, no formal record is available to indicate what the "current practices" for x-ray and physical therapy charges had been. This language, providing for the reduction of x-ray and physical therapy charges according to an undocumented "current practice," continued to appear in the SFMH contract until July 1, 1993.⁴

- On July 1, 1992, the contract was modified to increase the fees for FTR and Emergency Room visits, and to increase the applicable discount for inpatient services from five percent to 20 percent. As a result, the current fee arrangements between the ERS and SFMH provide for fixed rates for routine office visits, reductions of x-ray and physical therapy charges to the Official Medical Fee Schedule, a \$275 charge for the evaluation of "stress claims," and a 20 percent discount for inpatient services.

Although contract terms have been revised from time to time since the current contract took effect on January 1, 1985, the medical services provided by SFMH have never been the subject of competitive bidding. Although the WCD does not monitor the annual cost of SFMH services, the Budget Analyst estimates 1992-93 payments for SFMH services at approximately \$2.5 million.

Concerning the SFMH contract, the WCD Division Manager informed the Budget Analyst in the course of this audit that there has "never been an approach that [he knows] of to take it over." In addition, the minutes of a March, 1991 meeting between ERS and SFMH executives reflect the comments of the former ERS Deputy General Manager to the effect that the City is "unlikely" to review the contract over the next two fiscal years, is not required to take the lowest bid for contracts even when they are subject to competitive selection, and that, because the relationship with ERS and SFMH has existed since 1972 and has, "evolved over a number of years... it is not expected that anyone could match or beat Saint Francis in terms of good service at a low cost."

These comments are problematic because, (1) the contract should be subject to competitive bidding regardless of whether the WCD is approached by medical providers who may wish to provide the needed services; (2) there is no factual basis for the assertion that SFMH provides the best service at the lowest cost, since the WCD has not compiled information concerning the comparative cost of medical services provided by SFMH and other providers; and (3) such comments may provide incentives for SFMH to increase the cost of services, if the hospital concludes that contract costs are not closely monitored and that the City is unlikely to subject the contract to competitive selection. In short, these comments

⁴ An ERS internal memorandum of June 4, 1992, which is not part of the contract, indicates that SFMH "has agreed to continue to allow reductions of 46-54 percent in x-ray and physical therapy charges" (emphasis added). This apparently refers to the practice of reducing these charges to applicable rates under the Official Medical Fee Schedule. However, a contractual provision for the reduction of physical therapy and x-ray charges to the allowable rates under the fee schedule was not expressly included in the terms of the contract until July 1, 1993.

reflect a fundamental misunderstanding on the part of ERS managers concerning their responsibility to ensure that personal services contracts are secured through competitive processes, and that existing contracts are carefully monitored to ensure that fees which are charged remain competitive.

Our review of the billing practices and current fee arrangements between SFMH and the WCD reflects that, as a direct result of the contract, the WCD is currently foregoing approximately \$407,000 annually in discounts which are currently available under the Official Medical Fee Schedule and the CompAlliance preferred provider organization for medical services which are provided by SFMH. The WCD could realize this savings by (1) applying applicable CompAlliance discounts to SFMH services and (2) referring City employees to non-hospital providers of service in order to obtain preferred rates under the Official Medical Fee Schedule (see Section 7.1 of this report).

Referral Physicians

Referral physicians are needed to provide services in three distinct circumstances: (1) in order to provide continuing medical treatment on behalf of injured workers who are seen at the Franciscan Treatment Room; (2) to provide independent medical consultations if an employee is receiving treatment which the WCD considers inappropriate; and (3) to provide formal consultations in litigated cases where the medical facts of the claim are in dispute.

The WCD has not developed standards for the selection of referral physicians and has not provided consistent guidelines concerning medical referral procedures for use by WCD staff. The General Manager of the ERS initially reported that referral physicians are approved by the Employees Retirement Board, but she later stated that there is not, in fact, a panel of referral physicians which has been approved by the Retirement Board. The Division Manager stated that, at one time, the qualifications of referral physicians were reviewed by the Retirement Board, but that this practice has been abandoned.

Both the ERS General Manager and the WCD Division Manager emphasized that medical providers must meet a number of special conditions in treating work-related injuries. Physicians must agree to accept fees which have been reduced to the Official Medical Fee Schedule, must provide required reports in a timely fashion, and must adequately address specific issues which are related to the examination of workers compensation claims. These managers state that a referral panel of physicians which has been developed by SFMH meet these and other criteria, and thus confer a benefit on the City.

However, extensive reliance by the WCD on the services of a limited group of physicians may also have adverse consequences. Claims examiners reported that delays in obtaining appointments with a relatively small group of designated referral physicians can lead to unnecessary delays in the resolution of claims. The City Attorney reports that some of the WCD referral physicians have been identified by administrative law judges at the Workers Compensation Appeal Board as potentially biased on behalf of the City, with the result that medical

opinions rendered by these physicians may be weighed less favorably at the WCAB in resolving disputed issues.

SFMH Referral Panel

The ERS General Manager was asked to provide documentation of the referral panel or panels of physicians which are used by the WCD to provide medical treatment to City employees. In response, the General Manager provided a list of referral physicians which has been developed by Saint Francis Memorial Hospital for use by physicians in the Franciscan Treatment Room.

As previously noted, the Franciscan Treatment Room at SFMH provides initial medical treatment to approximately 80 to 90 percent of the City's injured workers, according to the WCD. However, the FTR is not utilized as a source of ongoing medical treatment to injured workers. The WCD Division Manager reports that, in most cases, City workers are seen for no more than 3 weeks at the FTR. If additional treatment is needed after that time, the employee is referred by FTR medical staff to a physician specialist from the SFMH referral panel of physicians.

According to the Division Manager, there are no written guidelines between the WCD and SFMH for the referral of City employees to physician specialists by FTR staff. The Division Manager indicates, however that the FTR assigns referral physicians on a rotating basis.

Neither the Retirement Board nor the managers of the Workers Compensation Division are involved in selecting or approving the referral panel of physicians which is used by SFMH. The Division Manager stated that it is "easier" for the FTR to approve physicians and make referrals than for the WCD to review and approve the qualifications of referral physicians.

• *Other Referral Panels*

In addition to the SFMH referral panel, individual WCD Claims Supervisors maintain lists of referral physicians to provide treatment services and professional consultations. Claims supervisors and examiners report that they select referral physicians on the basis of their individual experience with each physician and the informal reports which are provided by other staff members. However, these efforts on the part of WCD staff to identify the most appropriate providers of service are not coordinated by WCD management. This lack of management oversight results in insufficient safeguards against abuses.

Annual Costs of Referral Physician Services

A review of all physician referral lists which were ultimately made available by the WCD reflects that a total of \$2,536,591 was paid to WCD referral physicians in 1992-93, but that the 25 most highly paid physicians received \$1,868,511, or 73.7 percent of all WCD expenditures for the services of referral physicians (an average of \$74,740 per physician). However, despite these high

expenditures for a relatively few physicians, the WCD has not negotiated any preferred provider discounts with its referral physicians. As discussed in Section 11 of this report, we estimate that the WCD could realize annual savings of approximately \$253,000 by instituting preferred provider discounts for the services of referral physicians.

Medical Coordinator

The WCD's Medical Coordinator was retained in 1991 to provide medical case management services.⁵ However, these services were not procured through a competitive bidding procedure. Rather, according to the Medical Coordinator, she was recommended to the WCD by the Ayers & Co. representative, who, in turn, had been retained on the basis of her prior acquaintance with the WCD Division Manager.

The Medical Coordinator does not have a written contract with the WCD, but performs services on a case by case basis at an hourly rate of \$53.

The WCD does not monitor the level, quality, or overall cost of services which are provided by the Medical Coordinator. Based on WCD payment records, we estimate that the Medical Coordinator earned approximately \$60,000 in 1992-93 to perform medical case management services. However, since no written records are maintained by WCD managers to measure the Medical Coordinator's performance, the cost effectiveness of these services cannot be ascertained.

The Medical Coordinator has also negotiated preferred provider discounts with a number of health care providers, including, (1) Workers Compensation Casualty Services, which performs utilization review of inpatient services, at an estimated total cost of \$14,140 in 1992-93 (2) Future Diagnostics, which provides Magnetic Resonance Imaging (MRI) diagnostic services, at a total estimated cost of \$364,528 in 1992-93; and (3) a variety of home care and nursing agencies, at a total estimated cost of \$293,685. In short, the WCD has delegated responsibility to the Medical Coordinator to obtain services of other independent contractors valued at \$672,353. This amount represents a substantial financial obligation of the City which should be managed by WCD managers, and not by an independent contractor.

Although the preferred provider discounts negotiated by the Medical Coordinator may confer a financial benefit on the City, all such fee arrangements should also be subject to competitive selection procedures, rather than being negotiated on behalf of the City by an independent contractor.⁶

⁵ Medical case management consists of monitoring an injured worker's medical status and the provision of medical care, in order to provide an appropriate level of service in the most cost effective manner.

⁶ The Medical Coordinator did not provide detailed information concerning a number of these preferred provider arrangements, on the grounds that the fee arrangements which she has negotiated with these providers is "proprietary."

Reviewco

The services of Reviewco were retained in 1987, based on a competitive selection procedure, to provide medical bill review services. These services consist of inputting all billed charges into a computer database, and reducing these charges to allowable amounts under the Official Medical Fee Schedule. The annual cost of these bill review services is currently \$385,315. According to Reviewco data, these medical bill review services resulted in total reductions of \$6.1 million from billed medical charges in 1992-93, as a result of reducing billed charges to allowable amounts under the Official Medical Fee Schedule.

The Reviewco contract was modified in July, 1992 to incorporate the CompAlliance preferred provider organization which is administered by Reviewco. The annual cost to the City of utilizing the CompAlliance PPO network is currently \$350,000. Reviewco administers the PPO by reducing billed medical charges first to the Official Medical Fee Schedule, and then applying an additional PPO discount. According to Reviewco, the PPO discount for outpatient services is approximately 11 percent, while inpatient discounts are based on the fee agreement which has been negotiated between CompAlliance and individual hospitals.

According to Reviewco data, the City realized total savings of approximately \$2.4 million in 1992-93 as a result of CompAlliance PPO discounts. However, by negotiating PPO discounts directly with individual providers, the City could save the \$350,000 annual cost of the CompAlliance PPO network which is administered by Reviewco, and may also obtain higher discounts than those available from the CompAlliance PPO. This issue is discussed in greater detail in Section 7.1.

Summary

This overview of the WCD's procedures for procuring the services of independent contractors reflects that the WCD has not employed competitive selection procedures to obtain contract services valued at more than \$6.3 million on an annual basis, including the services of:

- (1) Saint Francis Memorial Hospital, which has provided initial medical treatment to most injured workers since 1982;
- (2) referral physicians who provide specialized medical treatment to City workers;
- (3) Corporate Systems, which provides the City's leased claims management information system; and,
- (4) independent contractors who provide all of the City's State-mandated vocational rehabilitation services.

In addition, in many instances, the WCD has delegated authority for the selection of independent contractors to other independent contractors, such as:

- (1) referral physicians who are selected by Saint Francis Memorial Hospital;
- (2) vocational rehabilitation counselors who are selected by the Ayers & Co. rehabilitation representative;
- (3) the CompAlliance preferred provider organization, which has been selected by Reviewco;
- (4) other preferred providers of health care services who have been selected by the Medical Coordinator; and,
- (5) the Corporate Systems claims management information system, which was implemented on the recommendation of Alexander & Alexander, the firm which had previously provided contract services.

The WCD's consistent failure to procure services and facilities through competitive procedures results in grossly inadequate assurance that the City's financial interests in obtaining needed services at the lowest possible cost are best served.

The WCD should conduct a thorough analysis of all services which are currently performed by independent contractors, and develop a specific plan for (1) abolishing unnecessary or duplicative services, (2) employing Civil Service positions to perform services which are permanent in nature, including vocational rehabilitation services, (3) implementing competitive selection procedures for any services which will continue to be performed by independent contractors, and (4) entering into written contracts with any independent contractors who perform services at the discretion of the WCD. In addition, the WCD should greatly improve its monitoring of contractor payments and performance.

Conclusion

The WCD expends more than \$9.6 million annually for the services of independent contractors. However, the WCD has not engaged in competitive selection procedures to procure the services of most independent contractors, who provide more than \$6.3 million in services. The WCD's failure to procure services and facilities through competitive procedures results in grossly inadequate assurance that the City's financial interests in obtaining needed services at the lowest possible cost are best served.

Recommendations

The WCD should:

- 6.1 Conduct a thorough analysis of all services which are currently performed by independent contractors;
- 6.2 Abolish unnecessary or duplicative services which are currently provided by independent contractors;
- 6.3 Employ Civil Service positions to perform services which are permanent in nature, including vocational rehabilitation services;
- 6.4 Implement competitive selection procedures for any services which will continue to be performed by independent contractors;
- 6.5 Enter into written contracts with any independent contractors who perform services at the discretion of the WCD;
- 6.6 Greatly improve its monitoring of contractor payments and performance.

Costs/Benefits

The cost savings which could result from using competitive procurement procedures for the services of independent contractors cannot be estimated precisely, since the purpose of using such procedures is, by definition, to determine the lowest possible cost of needed services. We estimate that the WCD could save \$21,151 annually by utilizing a Civil Service position to perform the services of the Qualified Rehabilitation Representative. In addition, given the WCD's failure to use competitive procedures to obtain services valued at more than \$6.3 million annually, we believe that savings in other areas could be significant.

SECTION 7: HEALTH CARE DELIVERY SYSTEMS

The City's total annual costs for workers compensation benefits include a significant health care component. In 1992-93, the WCD expended \$17,850,114 for health care services which were provided to injured workers, representing 46.4 percent of the WCD's total benefit expenditures of \$38,462,786.

In this section, we assess the WCD's performance in providing health care services in the most cost effective manner, recommend an alternative health care delivery system for the immediate future, and analyze additional alternatives which should be examined by the recommended Benefits Administrator in the Department of Human Resources, including (1) the use of newly authorized workers compensation health care organizations, and (2) the potential for greater consolidation or coordination of employee health care services which are now provided independently by the WCD and the Health Service System.

This section of our report consists of the following subsections:

Section 7.1: Comparative Costs and Preferred Provider Discounts

Section 7.2: Alternative Health Care Delivery

Section 7.3: Workers Compensation Health Care Organizations

Section 7.4: Integration with the Health Service System

SECTION 7.1: COMPARATIVE COSTS AND PREFERRED PROVIDER DISCOUNTS

- THE WCD HAS NOT COMPLIED WITH ADMINISTRATIVE CODE REQUIREMENTS TO REPORT ANNUALLY TO THE BOARD OF SUPERVISORS CONCERNING THE COMPARATIVE COSTS OF MEDICAL SERVICES WHICH ARE PROVIDED IN WORKERS COMPENSATION CLAIMS.
- THE WCD HAS NOT NEGOTIATED APPROPRIATE PREFERRED PROVIDER DISCOUNTS WITH HEALTH CARE PROVIDERS. THE WCD COULD REALIZE ANNUAL SAVINGS OF APPROXIMATELY \$1.1 MILLION BY NEGOTIATING MORE FAVORABLE PREFERRED PROVIDER DISCOUNTS, INCLUDING:
 - (A) \$407,045 FOR THE SERVICES OF SAINT FRANCIS MEMORIAL HOSPITAL;
 - (B) \$253,651 FOR THE SERVICES OF REFERRAL PHYSICIANS, WHO CURRENTLY ARE NOT SUBJECT TO ANY PREFERRED PROVIDER DISCOUNTS DESPITE THE HIGH VOLUME OF SERVICES PROVIDED BY A VERY FEW PHYSICIANS;
 - (C) \$350,000 BY DIRECTLY NEGOTIATING PREFERRED PROVIDER DISCOUNTS AND ELIMINATING THE CONTRACT SERVICES OF THE COMPALLIANCE PREFERRED PROVIDER NETWORK; AND,
 - (D) \$53,800 BY NEGOTIATING MORE FAVORABLE DISCOUNTS FOR CERTAIN DIAGNOSTIC PROCEDURES.
- THE WCD SHOULD NEGOTIATE AND IMPLEMENT MORE FAVORABLE PREFERRED PROVIDER DISCOUNTS WITH HEALTH CARE PROVIDERS IN ORDER TO REALIZE ANNUAL SAVINGS OF APPROXIMATELY \$1.1 MILLION.

Analysis of Comparative Costs of Medical Services

Section 16.83 of the Administrative Code provides that the Retirement Board shall have authority to arrange for hospitalization and medical treatment, "at such hospitals or other medical facilities as it determines necessary and appropriate and as recommended by the attending physician" for workers who are injured in the course of City employment.

However, Section 16.83 of the Administrative Code also requires the Retirement Board to report annually to the Board of Supervisors concerning the "comparative costs of the aforesaid hospitals and other medical [facilities]" in order for the Board of Supervisors to review these costs. The City Attorney's office reports that the Retirement Board has failed to comply with this reporting requirement of the Administrative Code, despite having been advised by the City Attorney of its obligation to do so.

As a result of the ERS's failure to comply with the reporting requirements of the Administrative Code, the City has not obtained information concerning the comparative cost of health care services which are provided by the WCD.

Current WCD Preferred Provider Discounts

Saint Francis Memorial Hospital

Since 1982, most of the City's injured workers have received initial medical treatment at the Franciscan Treatment Room (FTR) of Saint Francis Memorial Hospital. In addition to FTR services, SFMH has provided a range of other hospital-based medical services on behalf of the City's injured workers. However:

- The WCD pays more for office visits made by injured workers to SFMH than the rates established under the Official Medical Fee Schedule¹; and,
- The SFMH contract provides less favorable discounts than those which would apply to SFMH services under the terms of the CompAlliance preferred provider network.² Although SFMH is a member of the CompAlliance network, the more favorable CompAlliance discounts have been suspended in order to apply less favorable contract rates.

In effect, the SFMH contract has increased the cost of SFMH services compared to the rates which would be payable for similar services under the Official Medical Fee Schedule and the CompAlliance PPO.

Table 7.1 compares the current SFMH contract rates and discounts with the rates and discounts which the City could receive for identical services under the Official Medical Fee Schedule and the CompAlliance PPO.

¹ Under the Labor Code, the Official Medical Fee Schedule is issued by the State Division of Industrial Accidents to regulate the costs of medical services which are provided to injured workers. The fee schedule constitutes, "prima facie evidence of the reasonableness of fees charged for medical services" in workers compensation claims (Labor Code Section 5307.1).

² The WCD contracts with Reviewco to obtain preferred provider discounts under the CompAlliance PPO. Reviewco administers and applies these discounts as part of its contract to reduce medical bills to the Official Medical Fee Schedule. After charges are reduced to the fee schedule, the charges of CompAlliance providers are further reduced on a percentage basis. Reviewco states that the amount of these CompAlliance PPO discounts is proprietary information.

Table 7.1

Comparison of SFMH, Fee Schedule, and CompAlliance Rates

Type of service	SFMH contract	Official Medical Fee Schedule (OMFS)	CompAlliance
Inpatient services	Total hospital charges less 20 pct.	Does not apply to hospital services	Total hospital charges less 35 pct.
Ancillary hospital services (e.g. laboratory)	No discounts apply	Does not apply to hospital services	Total hospital charges less 20 pct.
Physical therapy ¹	Per OMFS	Per fee schedule	Charges less 20 pct.
X-rays ¹	Per OMFS	Per fee schedule	Charges less 20 pct.
Routine office visits			
Initial visit	\$47.25	\$46.74	\$42.07 ³
Follow up visit	32.55	31.98	28.78 ³
Emergency Room visits	\$90.29 ²	\$49.82	\$44.84 ³

1 SFMH charges for these services are not subject to the fee schedule, since the fee schedule does not apply to hospital services. Nonetheless, the SFMH contract allows reductions to the fee schedule. However, when these services are provided in a non-hospital setting, they are (1) automatically subject to the fee schedule rates and (2) discounted by an additional 10 percent, under the CompAlliance PPO.

2 Based on the average cost of SFMH emergency room visits in a sample of 100 SFMH medical bills from June 1992.

3 Based on fee schedule rates, less 10 percent.

As shown in Table 7.1:

- Inpatient services are less costly under the CompAlliance PPO (discounted 35 percent) than under the terms of the contract (discounted 20 percent). Therefore, the WCD should realize discounts of at least 35 percent (rather than the current 20 percent discount) from SFMH inpatient charges.

- Ancillary hospital services (such as laboratory and diagnostic services) are less costly under the CompAlliance PPO (discounted 20 percent) than under the terms of the SFMH contract (no discounts apply). Therefore, the WCD should realize discounts of at least 20 percent on SFMH charges for ancillary hospital services.
- Physical therapy and x-ray services are payable at the fee schedule rates under the contract, whereas they would be discounted by 20 percent from total charges under the CompAlliance PPO. These contract (fee schedule) rates are more favorable than the CompAlliance discounts which apply to SFMH charges for physical therapy and x-ray services. Thus, if there were no contract, the City would pay more for x-rays and physical therapy services *which are provided by SFMH.*³

However, if identical services were provided by non-hospital based providers, they would automatically be subject to the fee schedule. If CompAlliance providers were used, fee schedule rates would be reduced by an additional 10 percent. Therefore, these services could be procured at a lower cost from non-hospital based providers who are members of the CompAlliance PPO. In order to be competitive with other providers, physical therapy and x-ray services now provided by SFMH should be procured at the fee schedule rate discounted by at least 10 percent.

- Routine office visits to the Franciscan Treatment Room cost more under the contract than comparable visits to non-hospital providers under the Official Medical Fee Schedule. Moreover, the CompAlliance PPO provides additional discounts of approximately 10 percent from fee schedule rates for non-hospital providers. Since the WCD could receive more favorable terms from non-hospital based CompAlliance providers, the WCD should pay for routine office visits at the fee schedule rate for routine office visits, discounted by at least an additional 10 percent.
- Emergency room visits are payable under the contract at a rate of \$77 to \$100, depending on the service provided. However, our review of SFMH bills reflects that most emergency room visits were charged at the maximum rate of \$100, regardless of the service provided, and the

³ The Official Medical Fee Schedule does not apply to hospital services, but only to non-hospital providers. Therefore, x-ray and physical therapy services at SFMH would not ordinarily be subject to the fee schedule. However, the SFMH contract "permits" SFMH charges for x-rays and physical therapy to be reduced to the fee schedule. The reduction of these hospital charges to the fee schedule rates creates significant savings compared to actual charges or CompAlliance discounts of 20 percent, as shown in Table 11.2. However, the fee schedule would apply automatically to identical services provided in a non-hospital setting, and CompAlliance providers would provide further discounts of approximately 10 percent.

average cost of each visit was \$90.29.⁴ This practice is contrary to the terms proposed by SFMH in 1981, which included reducing office visits made to the SFMH emergency room to applicable rates under the Official Medical Fee Schedule. Therefore, the WCD should pay no more than applicable fee schedule rates for emergency room visits. In addition, due to the volume of WCD medical services provided by the hospital, these emergency room visits should also be discounted by at least an additional 10 percent preferred provider discount.

Table 7.2 presents an analysis of actual SFMH charges under various pricing schedules. Specifically, the table reflects:

- (A) Estimated SFMH charges in 1992-93 for each type of service;
- (B) Rates for identical services under the Official Medical Fee Schedule;
- (C) Costs of services in each category under applicable SFMH contract rates;
- (D) The cost of SFMH services if there were no contract, and SFMH charges were reduced according to the terms of the CompAlliance PPO; and,
- (E) The maximum cost which we estimate that the WCD should pay for SFMH services, based on rates established in the Official Medical Fee Schedule and current CompAlliance PPO discounts.

As shown in Table 7.2, the WCD could realize annual savings of an estimated \$407,045 by applying discounts for the services of SFMH which are currently available to the WCD under the Official Medical Fee Schedule and the CompAlliance PPO network.⁵

In summary, SFMH services are more costly under the contract than the WCD would pay for these services under the CompAlliance PPO (for inpatient and ancillary services), and the Official Medical Fee Schedule (for office visits, x-rays, and physical therapy). Since the WCD could currently procure identical services at lower rates, the contract rates for SFMH services are not competitive.

The WCD should modify its contract with SFMH in order to obtain immediately the discounts which are recommended above. If SFMH is unwilling to accept such modifications, the contract should be cancelled following a 90 day notice, and arrangements should be made for City workers to obtain treatment from other physicians designated by the WCD or from their personal physicians, until an alternative medical contractor can be retained.

⁴ The fee schedule applies only to emergency room services provided by contract physicians who are not affiliated with the hospital. However, SFMH offered in its original 1981 proposal to charge for emergency room visits at the fee schedule rate. As shown above, this original SFMH proposal for the pricing of emergency room visits has not been implemented under the contract.

⁵ This analysis is based on the Official Medical Fee Schedule which is currently in effect. However, the State has issued a new fee schedule, to take effect March 1, 1994, which will make significant revisions to the allowable rates for workers compensation medical services.

TABLE 7.2
COMPARISON OF SFMH COSTS
Under different pricing schedules

1992-93 <u>Service</u>	(A) Estimated annual charges	(B) Rates under Off. Medical Fee Schedule	(C) SFMH contract cost	(D) CompAlliance Discounts*	(E) Recommended Discounts (PPO rate @ 10%)
1 X-ray	787,175	400,082	400,082 (1)	629,740 (4)	360,074 (6)
2 Physical therapy	1,222,707	501,483	501,483 (1)	978,166 (4)	451,335 (6)
3 Emergency Room	130,580	48,127	79,609 (2)	104,464 (4)	43,314 (6)
4 Ancillary services	550,615	550,615	550,615	440,492 (4)	440,492 (7)
5 Outpx pharmacy	47,275	40,657	47,275	37,820 (4)	37,820 (7)
6 Occ. Health Clinic	<u>275,114</u>	<u>270,339</u>	<u>275,114 (2)</u>	<u>275,114 **</u>	<u>243,305 (6)</u>
7 Outpatient totals	3,013,466	1,811,303	1,854,178	2,465,796	1,576,340
8 Inpatient	<u>861,378</u>	<u>861,378</u>	<u>689,102 (3)</u>	<u>559,896 (5)</u>	<u>559,896 (8)</u>
9 Total SFMH Fees	3,874,844	2,672,681	2,543,280	3,025,691	2,136,236

(1) Red. to fee schedule

(2) Reflects contract rates

(3) Inpatient fees less 20%

* Fee schedule does not apply (6) Fee schedule less 10%

(4) Outpatient fees less 20% (7) Outpatient fees less 20%

(5) Inpatient fees less 35% (8) Inpatient fees less 35%

** Market rate is unknown

Savings Summary: CompAlliance and recommended discounts compared to current SFMH contract rates

- CompAlliance discounts result in higher costs of \$482,411, due to hospital rates for physical therapy and x-ray services.
- Recommended discounts (see text) result in annual savings of \$407,045.

Columns (C-D)

(\$611,618)	\$277,838
-------------	-----------

Outpatient: savings vs. contract

\$129,207	\$129,207
-----------	-----------

Inpatient: savings vs. contract

(\$482,411)	\$407,045
-------------	-----------

All services: savings vs. contract

This recommendation is made to ensure that SFMH charges are competitive with existing fee schedule and CompAlliance discounts. In addition, the WCD should immediately undertake competitive bidding for its health care services, to ensure that costs are minimized based on current market conditions. Our specific recommendations for restructuring WCD health care services based on competitive bidding are discussed below, under "Alternative Health Care Delivery" (Section 7.2).

Referral Physicians

The Budget Analyst has reviewed 1992-93 expenditure data obtained from Reviewco in order to assess the extent to which medical services are being provided by physicians who appear on various WCD referral lists. This analysis shows that, of total WCD 1992-93 medical expenditures of \$16,642,174 which were reported by Reviewco,⁶ a total of \$2,536,591 or approximately 15.2 percent was paid to physicians who appear on one or more of the three referral lists which were provided by the WCD to the Budget Analyst.

A total of 318 separate physicians appear on the three referral lists which were provided by the WCD.⁷ However, most expenditures for the medical treatment and consultation services of referral physicians have been made to a small subset of these referral physicians. For instance:

- Four physicians received in excess of \$100,000 during 1992-93, and one medical firm (comprised of several WCD referral physicians) was paid more than \$300,000.
- The single most highly paid physician was a neurologist who received in excess of \$200,000 during 1992-93.
- The 25 most highly paid physicians comprise only 7.9 percent of the 318 listed referral physicians, but received \$1,868,511 in 1992-93, or 73.7 percent of total 1992-93 expenditures of \$2,536,591 for the services of referral physicians.

Despite the high degree of utilization of a relatively small number of referral physicians, the WCD has not negotiated any preferred provider discounts with these physicians, and most are not enrolled in the CompAlliance PPO which is administered by Reviewco. CompAlliance preferred provider discounts which were applied to the services of the WCD's referral physicians in 1992-93 totaled \$25,503. This represents only one percent of total 1992-93 fees paid to these physicians of \$2,536,591.

⁶ Total 1992-93 WCD medical expenditures were actually \$17,850,114, but were under-reported by Reviewco in September, 1993 because data had been purged for some 1992-93 claims.

⁷ One referral list is dated January 16, 1983, and thus appears to date from the inception of the Saint Francis Memorial Hospital contract; another referral list was developed by SFMH; and a third was brought to the WCD by a Claims Supervisor from a private insurance company.

Were the WCD to impose preferred provider discounts of 10 percent on the services of its referral physicians, the City would realize annual savings of approximately \$251,096, based on total annual expenditures of \$2,510,961 for these services. Such a 10 percent discount would be comparable to the discounts which are currently applied to the services of physicians who are enrolled in the CompAlliance PPO. We therefore recommend that the WCD negotiate preferred provider discounts with all referral physicians who receive WCD referrals, in amounts which are at least 10 percent below the rates established under the Official Medical Fee Schedule.

CompAlliance Preferred Providers

The WCD currently pays \$350,000 on an annual basis to utilize the CompAlliance PPO network which is utilized by Reviewco. According to Reviewco data, the WCD realized annual savings of approximately \$2.4 million in 1992-93 for the services of CompAlliance PPO providers. Of this amount, approximately \$1.6 million, or 67 percent, represented discounts applied to the services of Bay Area hospitals who are members of the CompAlliance PPO.

The WCD should analyze the feasibility of directly negotiating preferred provider discounts with health care providers who are affiliated with the CompAlliance network. By directly negotiating such discounts, the WCD could eliminate the need to contract with Reviewco to receive CompAlliance preferred provider rates. If discounts were negotiated directly with these providers, the WCD could save the \$350,000 administrative fee which is paid to Reviewco in order to obtain CompAlliance preferred provider discounts.

Diagnostic Procedures

The WCD Medical Coordinator has negotiated preferred provider discounts with Future Diagnostics to obtain discounted rates for Magnetic Resonance Imaging (MRI) diagnostic procedures.⁸ The Medical Coordinator states that the WCD had not obtained discounted rates for MRI procedures when she was retained in March, 1991. The Medical Coordinator subsequently negotiated a preferred provider rate of \$725 for each MRI procedure, compared to standard rates of up to \$1,100 per procedure. She states that a lower \$725 rate took effect in October, 1993.

In contrast, the Health Service System currently pays between \$593 and \$618 for the majority of MRI procedures which are provided under the self-insured City Health Plan. We estimate that, if the WCD were to pay \$618, rather than the current rate of \$725, for each MRI procedure, the City would realize annual savings of approximately \$53,800.⁹ Therefore, the WCD should attempt to negotiate a discounted rate of no more than \$618 for MRI procedures.

⁸ The MRI is a radiology procedure used to evaluate internal injuries to bones and soft tissue.

⁹ The Health Service System also requires pre-approval by its utilization review contractor, Health Care Evaluation, Inc. for MRI and other major diagnostic procedures. The WCD does not currently require pre-approval of such procedures.

Additional Potential Savings

Other types of preferred provider discounts may be available to the WCD. In particular, charges submitted by retail pharmacies are currently reduced by Reviewco based on the wholesale cost of pharmaceuticals, increased by 40 percent. We have not evaluated whether this rate is more or less favorable than preferred provider discounts which may be available for pharmaceuticals, but this is an additional example of high volume services which could be discounted through the use of preferred provider networks. Clinical laboratory services are another example of health care services which are currently paid at full cost by the WCD.

The WCD should undertake an analysis of all of its medical and health care services in order to identify opportunities for additional preferred provider discounts, and should report to the Board of Supervisors concerning the comparative cost of medical services, as required under the Administrative Code.

Conclusions

The ERS has not complied with reporting requirements of the Administrative Code concerning the comparative cost of health care services which are provided by the WCD. The WCD has not negotiated appropriate preferred provider discounts with SFMH and referral physicians, and currently expends more for some SFMH services than it is required to pay under the Official Medical Fee Schedule and the CompAlliance PPO. Additional PPO discounts are available for diagnostic procedures, and may be available for other types of health care services.

Recommendations

The WCD should:

- 7.1-1 Modify its contract with SFMH to obtain discounts which are recommended above. If SFMH is unwilling to accept such modifications, the contract should be cancelled following a 90 day notice, and arrangements should be made for City workers to obtain treatment from other physicians designated by the WCD or from their personal physicians, until an alternative medical contractor can be retained;
- 7.1-2 Negotiate preferred provider discounts with all referral physicians who receive WCD referrals, in amounts which are at least 10 percent below the rates established under the Official Medical Fee Schedule;
- 7.1-3 Analyze the feasibility of directly negotiating preferred provider discounts with health care providers who are affiliated with the CompAlliance network;

- 7.1-4 Seek to negotiate a preferred provider rate of no more than \$618 for MRI procedures;
- 7.1-5 Analyze all of its medical and health care services in order to identify opportunities for additional preferred provider discounts;
- 7.1-6 Report annually to the Board of Supervisors concerning the comparative cost of medical services, as required under the Administrative Code.

Costs/Benefits

The WCD could realize annual savings of approximately \$1.1 million by negotiating preferred provider discounts which are recommended above. Additional savings could result if the WCD were to analyze the comparative costs of its medical services, as required under the Administrative Code, in order to identify cost saving strategies.

SECTION 7.2: ALTERNATIVE HEALTH CARE DELIVERY

- THE USE OF A PRIMARY MEDICAL CARE FACILITY TO PROVIDE INITIAL MEDICAL TREATMENT UNDER CONTRACT TO THE WCD CAN PROVIDE ADMINISTRATIVE EFFICIENCIES FOR THE WCD. HOWEVER, SUCH EFFICIENCIES SHOULD NOT BE ACHIEVED BY RELINQUISHING OVERSIGHT OF MEDICAL TREATMENT TO THE MEDICAL CONTRACTOR.
- THE WCD SHOULD RESTRUCTURE ITS HEALTH CARE DELIVERY SYSTEMS BY:
 - (A) COMPETITIVELY BIDDING ITS CONTRACT FOR THE INITIAL MEDICAL EVALUATION AND TREATMENT OF INJURED WORKERS, AND,
 - (B) DEVELOPING AN INDEPENDENT PANEL OF REFERRAL PHYSICIANS WHO WILL PROVIDE ONGOING MEDICAL TREATMENT SERVICES, SUBJECT TO THE OFFICIAL MEDICAL FEE SCHEDULE AND NEGOTIATED PREFERRED PROVIDER DISCOUNTS.
- BY SEPARATING THE INITIAL MEDICAL EVALUATION OF EMPLOYEES FROM ONGOING TREATMENT SERVICES, THE WCD CAN EXERT GREATER CONTROL OVER THE LEVEL AND QUALITY OF MEDICAL CARE WHICH IS PROVIDED TO THE CITY'S INJURED WORKERS.

The use of a single medical facility, or group of facilities, to provide workers compensation services provides a number of administrative efficiencies. Specifically, the use of a primary medical facility to provide initial treatment to injured workers can enable the WCD to:

- Refer employees to a single medical care facility in the event of a work-related injury;
- Ensure that medical services will be provided promptly in the event of a work-related injury;
- Streamline procedures for obtaining initial medical reports, which are needed within 14 days of the injury in order to evaluate whether a claim should be accepted or denied;
- Develop effective working relationships among WCD staff and the physicians who evaluate work-related injuries; and,
- Negotiate preferred provider discounts with the primary medical care facility based on the WCD's high demand for medical services.

Of the 15 California jurisdictions who responded to the Budget Analyst's survey, two did not provide details of their health care delivery systems for the treatment of work-related injuries. Of the remaining 13:

Nine utilize designated workers compensation outpatient clinics;
Two utilize a panel of physicians; and
Two do not designate specific medical providers for workers compensation services.

In one jurisdiction which does not designate specific providers, workers compensation health services are included in medical contracts for non-work related health care benefits which are provided by the employer.

Since 1982, the WCD has relied primarily on the services of Saint Francis Memorial Hospital to provide initial treatment to the City's injured workers. However, as noted above and in previous sections of this report:

- The SFMH contract has never been subjected to competitive selection;
- Significant quality control procedures which were included in the 1981 SFMH proposal for health services have not been continued;
- The level of treatment and the appropriateness of disability determinations made by SFMH physicians are not monitored by the WCD; and,
- The fees paid to SFMH under the contract are higher than rates which are payable under the existing CompAlliance preferred provider network and the Official Medical Fee Schedule.

While the use of a primary medical care facility can provide administrative efficiencies for the WCD, these efficiencies should not be achieved by relinquishing oversight of medical treatment to the medical contractor.

In many cases, SFMH physicians refer City employees to medical specialists who are selected from a panel of referral physicians developed by the hospital. In addition, WCD staff maintain at least two other physician referral lists. However, the WCD has not (1) selected referral physicians through competitive procedures, (2) implemented standard procedures for referring City employees to treating physicians or medical specialists, or (3) monitored the quality and duration of medical services which are provided by referral physicians.

For these reasons, the WCD should restructure its health care delivery system for providing medical treatment for work-related injuries. In particular, the initial evaluation of work related injuries should not be made by physicians who are responsible for ongoing medical treatment. By separating the employee's initial medical evaluation from ongoing treatment services, the City will remove financial incentives for physicians to develop treatment plans which may include unnecessary or protracted medical services.

Instead, the WCD should obtain an initial medical evaluation for each injured worker from a physician who will not direct the medical treatment of the employee. Specifically, the WCD should refer injured City workers to a medical facility which will:

- (1) provide initial medical treatment of the employee's medical condition;
- (2) submit a medical report concerning the injury to the WCD on a timely basis; and,
- (3) provide a written medical evaluation which includes a diagnosis, prognosis, and recommended treatment plan.

Based on this independent medical evaluation, physicians who provide ongoing treatment can be guided by a medical evaluation and treatment plan which has been recommended by an independent medical professional.

This will provide an objective assessment which can be used as a standard to monitor medical treatment by treating physicians. If the actual course of treatment deviates significantly from the prognosis and treatment plan contained in the original evaluation, the WCD can (1) monitor the treatment more closely, and (2) refer the employee back to the physician who performed the initial evaluation (or any physician who would be independent of ongoing treatment) in order to obtain a second medical opinion based on case developments.

The WCD should therefore:

- Issue a Request for Proposal from local medical facilities to (1) provide initial treatment for work-related injuries, (2) assess the employee's disability status and ability to return to work; (3) provide a written diagnosis and recommended treatment plan for each injured worker, and (4) communicate the results of the initial medical evaluation to WCD staff.
- Develop a network of treating physicians, medical specialists, physical therapists, and other health care providers who are willing to provide workers compensation services at competitive, preferred provider rates. Based on current CompAlliance discounts, these preferred rates should be at least 10 percent less than rates which are currently established for workers compensation medical services under the Official Medical Fee Schedule.¹

¹ The official Medical Fee Schedule has been revised, and higher rates are expected to take effect March 1, 1994. Actual fees and preferred provider discounts should be negotiated with referral physicians based on these new fee schedule rates. If allowable fees are increased under the revised fee schedule, it should be possible to negotiate preferred provider discounts higher than 10 percent, in order to achieve rates which are comparable to current prices.

- Develop standards and procedures for referring City employees to treating physicians and other medical providers following the initial medical evaluation, based on the medical needs which are identified during the employee's initial medical evaluation.
- Monitor the performance of individual physicians in providing medical treatment, including the duration of treatment, the use of special diagnostic procedures or laboratory services, the overall quality of services, the quality and timeliness of required medical reports, and the rate at which employees are returned to work.

The Department of Public Health has prepared a strategic plan which contemplates providing medical services on behalf of the WCD. The WCD should submit its Request for Proposal to the DPH in order for the DPH to evaluate its capacity to provide the needed services, and to respond accordingly.

These recommendations concern immediate action which is needed to restructure the WCD's health care delivery systems. In Section 7.3, we discuss the potential use of workers compensation health care organizations, which have recently been authorized by the State legislature, to provide medical services on behalf of injured workers. Until the new State legislation can be evaluated fully, the WCD should restructure its health care delivery systems based on the recommendations presented above.

The ERS General Manager indicates that planning has already been conducted to competitively bid the WCD health services contract. In fact, the minutes of a May 26, 1993 meeting between WCD and SFMH executives reflect the General Manager's comment that a Request for Proposal for health care services could be included as part of the WCD health care contract for 1994-95.

In order to develop, implement, and evaluate a new health care delivery system, the WCD should employ the services of a Health Care Analyst. The Health Care Analyst will be responsible to:

- (1) prepare a Request for Proposal and identify an appropriate facility for the initial evaluation and treatment of injured workers;
- (2) implement standard criteria for the selection of referral physicians;
- (3) continually assess the WCD's need for different types of medical services;
- (4) perform outreach to the medical community for inclusion in the WCD's panel of referral physicians;
- (5) negotiate preferred provider discounts with WCD referral physicians and other health care providers;
- (6) develop and implement a quality assurance program to evaluate the quality, duration, and level of treatment which is provided by WCD medical providers on a continuous basis; and,
- (7) develop management reports and statistical information concerning the comparative costs of WCD medical services for presentation to the Board of Supervisors, as required under the Administrative Code.

The Civil Service currently includes a Class 2119 Health Care Analyst who conducts health care evaluation studies for the Outpatient and Community Services Division of San Francisco General Hospital. At the present time, this is a single-position class with five incumbents, with a maximum annual salary in 1993-94 of \$51,548. With annual fringe benefits of 18 percent, we estimate the annual cost of a WCD Health Care Analyst at \$60,827.

The Civil Service Commission should review the position requirements of the Health Care Analyst classification and make any modifications which may be needed in order to secure the services of a Health Care Analyst for the WCD. The WCD should submit a personnel requisition and the Civil Service Commission should undertake appropriate recruitment and selection activities for a WCD Health Care Analyst. Funding for the Health Care Analyst should be provided through a supplemental appropriation in 1993-94 if a candidate is located in the current fiscal year, and funds should be included in the WCD annual budget in subsequent fiscal years.

Conclusions

While the use of a primary medical care facility can provide administrative efficiencies for the WCD, these efficiencies should not be achieved by relinquishing oversight of medical treatment to the medical contractor. Therefore, the WCD should restructure its health care delivery system by (1) instituting competitive bidding for a medical facility to provide initial treatment and evaluation of injured workers, and (2) negotiating preferred provider discounts with independent treating physicians who are selected by the WCD.

Recommendations

The WCD should:

- 7.2-1 Undertake competitive selection for a medical facility to provide initial evaluation and treatment of injured workers, to ensure that costs are minimized based on current market conditions.
- 7.2-2 Develop a preferred provider network of treating physicians who are independent of the medical facility which provides initial evaluation.
- 7.2-3 Employ the services of a Health Care Analyst to develop, implement, and evaluate a new health care delivery system. Funding for the Health Care Analyst should be provided through a supplemental appropriation in 1993-94 if a candidate is located in the current fiscal year, and funds should be included in the WCD annual budget in subsequent fiscal years.

The Civil Service Commission should:

- 7.2-4 Review the position requirements of the Health Care Analyst classification and make any modifications which may be needed in order to secure the services of a Health Care Analyst for the WCD.

The Board of Supervisors should:

- 7.2-5 Approve the new position of the Health Care Analyst within the WCD.

Costs/Benefits

The annual cost of a Health Care Analyst to develop, implement, and evaluate more effective health care delivery systems for the WCD is estimated at \$60,827. These costs would be offset by reductions in the cost of WCD medical services, which are currently \$17.9 million on an annual basis.

SECTION 7.3: WORKERS COMPENSATION HEALTH CARE ORGANIZATIONS

- IN ORDER TO PROVIDE MORE EFFECTIVE CONTROLS OVER MEDICAL TREATMENT COSTS IN WORKERS COMPENSATION CLAIMS, THE STATE LEGISLATURE HAS AUTHORIZED THE CREATION OF WORKERS COMPENSATION HEALTH CARE ORGANIZATIONS (WCHCOs).
- THE USE OF WCHCOs WOULD ENABLE THE CITY TO:
 - (A) EXERT GREATER CONTROL OVER THE CHOICE OF TREATING PHYSICIANS FOR WORK-RELATED INJURIES;
 - (C) BENEFIT FROM ESTABLISHED STANDARDS FOR THE DELIVERY OF MEDICAL CARE, INCLUDING UTILIZATION REVIEW AND QUALITY CONTROL PROGRAMS WHICH ARE REQUIRED OF WCHCOs; AND,
 - (B) DEVELOP MORE COMPREHENSIVE PREFERRED PROVIDER NETWORKS FOR WCD HEALTH CARE SERVICES.
- WORKERS COMPENSATION PROGRAM MANAGERS SHOULD RE-ASSESS THE CITY'S WORKERS COMPENSATION MEDICAL DELIVERY SYSTEMS IN LIGHT OF RECENT STATE LEGISLATION WHICH CREATES WORKERS COMPENSATION HEALTH CARE ORGANIZATIONS.

Although a major restructuring of the WCD's health care delivery systems is needed immediately (as discussed in Section 7.2), the future direction of workers compensation health care delivery should be evaluated in terms of recent legislative reforms. Specifically, the State Legislature has authorized the creation of workers compensation health care organizations. As a result, one alternative for restructuring the delivery of health care services in workers compensation claims in the future will be to procure the services of workers compensation health care organizations (WCHCOs).

This section of our report discusses the potential advantages of using WCHCOs to provide medical treatment for work-related injuries.

Overview

Assembly Bill 110 was enacted by the State Legislature in August, 1993. Among its provisions is the "Workers Compensation Health Care Provider Organization Act of 1993," which authorizes the creation of workers compensation health care organizations.¹ The law authorizes health care organizations to apply to the Workers Compensation Division of the California Department of Industrial Relations (DIR) for certification as WCHCOs on or after January 1, 1994. Since WCHCOs are in the very early stages of implementation, it is not currently known how many WCHCOs will be certified, or when they may become available to provide services.

The use of WCHCOs is not mandated under the legislation. However, the use of WCHCOs could have a potentially significant impact on workers compensation health care delivery systems. Some of these impacts are discussed briefly below.

Extended Period of Employer Control

One advantage of using WCHCOs to provide medical services is that the WCD would be able to extend the period of "employer control" of medical treatment.²

The employer will be able to control the employee's choice of treating physician for up to 365 days, if the employer chooses to employ WCHCOs to provide workers compensation health care services, and if certain other conditions are met.³ During this period, the employee must receive treatment from a physician who is a member of the WCHCO unless the employee has pre-designated a

1 California Labor Code Section 5150 et. seq.

2 "Employer control" refers to the right of the employer to designate the treating physician. During any period when medical control is exerted by the employer, the employee can request only one change of physician, who is also designated by the employer. If the employer does not control medical treatment, the employee has the right to select his own physician, and to change physicians if he so desires.

At the present time, the employer has the legal right to control the employee's choice of physician for no more than 30 days. After 30 days, the employee may select a physician of his choice. As a result, the employee may choose a physician who is more willing to approve disability leave, whose services may not be of an appropriate quality, who may be uncooperative in providing claims examiners with required reports, who may recommend unnecessary treatment, or whose lack of association with the workers compensation program otherwise impedes the control of medical costs.

Under recent legislative reforms, the only option for extending the period of employer control beyond the current 30-day period is to use WCHCOs to provide medical treatment. An employer is not required to use WCHCOs. However, if this option is not exercised, the period of employer control will continue to be only 30 days.

3 The exact period of extended employer control will be 90, 180, or 365 days, depending on (1) whether the employer provides general health care coverage to the employee, and (2) whether the employee's personal physician is a member of a WCHCO. The designation of specific WCHCOs to provide services will also require negotiations with employees' collective bargaining organizations.

personal physician.⁴ By using WCHCOs to provide employer-designated medical treatment for up to 365 days, the WCD can:

- Direct injured workers to specified medical providers, and deny reimbursement for "self-procured" medical treatment; and,
- Negotiate preferred provider discounts with WCHCOs based on the volume of medical services which is provided in workers compensation claims.

Standards for Certification of WCHCOs

In addition, WCHCOs will require certification from the State. According to regulations prepared by the DIR Division of Industrial Accidents, a WCHCO must meet the following conditions (among others) to obtain certification:

- Provide a complete range of health care services, including inpatient care, diagnostic services, physical therapy, laboratory services, and home health care;
- Provide initial treatment within 24 hours of the knowledge of the need for treatment;
- Develop guidelines for the referral of patients to individual treating physicians;
- Develop information resources, to be provided to employees, concerning procedures for obtaining medical services in the event of a work-related injury;
- Establish procedures to determine from the employer either (1) that liability for the injury has been accepted, and treatment has been authorized, or (2) the extent to which treatment should be provided if the employer has not specifically accepted liability for the injury;
- Establish a written utilization review program, including treatment standards, authorization procedures, and statistical reporting capabilities;
- Provide Medical Case Managers to coordinate all aspects of medical treatment decisions, including referrals to consultants and changes of physicians; and,
- Develop a Quality Assurance Program, in order to ensure that services meet professionally recognized standards of practice, by

⁴ If the employee's pre-designated personal physician is a member of a WCHCO designated by the City, the City will exert medical control for the maximum 365 day period.

monitoring and evaluating the services which are provided by individual physicians.

This overview of WCHCO certification standards indicates that WCHCOs will be required to, (1) provide comprehensive health care services in cases of work-related injuries, (2) develop utilization review and quality control procedures which ensure that treatment is appropriate and cost effective, and (3) establish formal information and referral systems which will ensure the prompt provision of medical treatment to injured workers. All of these requirements could provide new opportunities to improve the administrative efficiency and cost effectiveness of medical services which are provided to injured City workers.

Preferred Provider Discounts

Because the City can control an employee's choice of physicians for only 30 days at the present time, the WCD is unable to require that employees use preferred medical providers to treat work-related injuries. As a direct result, the City has less "bargaining power" with the medical community. If the City cannot require an employee to use a preferred provider, it cannot negotiate preferred provider rates in exchange for purchasing a high volume of the providers' services.

By using WCHCOs to provide most of the WCD's health care services, the City could negotiate preferred provider rates with the WCHCOs who are selected to provide medical care for the City's injured workers. As discussed in the next section, the HSS has successfully negotiated favorable discounts for other employee health care services based on a similar model. The use of WCHCOs could eliminate the need for the WCD to evaluate the qualifications of individual treating physicians and to negotiate preferred provider discounts with individual physicians.

Summary

In view of the potentially significant benefits of utilizing WCHCOs to coordinate the delivery of health care services in workers compensation claims, the Benefits Administrator in the Department of Human Resources (see Section 1) should (1) evaluate the cost effectiveness of WCHCOs to provide workers compensation health care services, and (2) report to the Workers Compensation Task Force and to the Board of Supervisors (as currently required under Section 16.83 of the Administrative Code) concerning the costs and benefits of utilizing WCHCOs to provide workers compensation health care services, relative to other health care delivery options.

Conclusions

The use of workers compensation health care organizations could enable the WCD to (1) exert greater control over the choice of treating physicians for work-related injuries, (2) benefit from established standards for the delivery of medical care, and (3) develop more comprehensive preferred provider networks for WCD health care services.

Recommendations

The recommended Benefits Administrator in the Department of Human Resources should:

- 7.3-1 Evaluate the cost effectiveness of workers compensation health care organizations to provide workers compensation health care services; and,
- 7.3-2 Report to the Board of Supervisors and the Workers Compensation Task Force concerning the costs and benefits of using WCHCOs to provide workers compensation health care services.

Costs/Benefits

There would be no specific costs associated with implementing these recommendations. The type of analysis which is needed to evaluate the use of WCHCOs would be included in the overall executive responsibilities of the recommended Benefits Administrator. The City could potentially realize financial savings resulting from extended employer control of the choice of medical providers, WCHCO utilization review and quality control programs, and by negotiating preferred provider rates with WCHCOs based on the volume of workers compensation health care services which is demanded by the City.

Section 7.3: Workers Compensation Health Care Organizations

SECTION 7.4: INTEGRATION WITH THE HEALTH SERVICE SYSTEM

- BOTH THE WCD AND THE HEALTH SERVICE SYSTEM PROVIDE EMPLOYEE HEALTH CARE SERVICES WHICH ARE PAID DIRECTLY BY CITY FUNDS. THE CITY SHOULD COORDINATE THE DELIVERY OF THESE SERVICES TO ENSURE THAT THEY ARE PROVIDED IN THE MOST COST EFFECTIVE MANNER.
- THERE MAY BE OPPORTUNITIES TO REDUCE THE COST OF EMPLOYEE HEALTH CARE SERVICES BY:
 - (A) CONSOLIDATING OR COORDINATING FUNCTIONS NOW PERFORMED SEPARATELY BY THE HSS AND THE WCD, INCLUDING PAYMENT PROCESSING, UTILIZATION REVIEW, AND MEDICAL CASE MANAGEMENT SERVICES, AND,
 - (B) NEGOTIATING THE MOST FAVORABLE PREFERRED PROVIDER DISCOUNTS BASED ON THE HIGH VOLUME OF HEALTH CARE SERVICES PROVIDED THROUGH THE HSS AND THE WCD.
- THE BENEFITS ADMINISTRATOR SHOULD:
 - (A) ANALYZE THE POTENTIAL COSTS SAVINGS WHICH COULD BE REALIZED BY INTEGRATING HSS AND WCD HEALTH CARE SERVICES, AND REPORT TO THE BOARD OF SUPERVISORS CONCERNING THIS REVIEW;
 - (B) IDENTIFY OPPORTUNITIES TO CONSOLIDATE ADMINISTRATIVE FUNCTIONS WHICH ARE NOW PERFORMED INDEPENDENTLY BY THE HSS AND WCD;
 - (C) MAXIMIZE THE CITY'S PREFERRED PROVIDER DISCOUNTS BASED ON THE VOLUME OF SERVICES; AND,
 - (D) ANALYZE THE AVAILABILITY OF HEALTH CARE ORGANIZATIONS TO PROVIDE A FULL RANGE OF EMPLOYEE HEALTH CARE SERVICES, INCLUDING TREATMENT FOR WORK-RELATED INJURIES.

The Health Service System provides health care services on behalf of the City to City employees, retirees, and dependent family members. These health care services are distinguished from similar services provided by the WCD only because the WCD provides health care in cases of work-related injuries, whereas the HSS provides health care without regard to the specific cause of a medical condition. Since a high percentage of City workers are enrolled in the Health Service System, most of the injured City workers who receive health care through the WCD are also provided with HSS health care coverage. In this sense, the health care services provided by both agencies are duplicative.

A significant portion of these health care benefits are self-insured by the City, meaning that the total cost of medical services is paid with City funds, rather than by an insurer to whom the City has paid an insurance premium. In other words, both the WCD and the HSS procure medical services directly from individual providers in order to serve the health care needs of City employees.

The Workers Compensation Task Force has recommended that the City evaluate the feasibility of consolidating the employee health care benefits which are currently paid separately by the HSS and the WCD. This section presents a preliminary assessment of some of the benefits which could result from such a consolidation, or from improved coordination between HSS and WCD health care delivery systems. However, the full effects of such consolidation should be addressed in a more comprehensive manner by the recommended Benefits Administrator in the Department of Human Resources.

Negotiation of Standard Preferred Provider Discounts for Employee Health Care Services

A principal advantage of consolidating HSS and WCD health services would be to negotiate heavily discounted preferred provider rates for all health services which are provided to City employees. This is evidenced by the fact that the HSS has already instituted its own preferred provider rates based on the high volume of services which it demands; according to the HSS, these discounted rates are more favorable than the HSS could receive from other preferred provider agreements.

However, a preliminary analysis of HSS preferred provider discounts for outpatient services reveals that these discounts are not as favorable as rates which are currently payable under the Official Medical Fee Schedule for workers compensation medical services. The Official Medical Fee Schedule used by the WCD was last revised in November, 1987, whereas the HSS last revised its fee schedule in November, 1992. Thus, lower rates have been "locked in" to the Official Medical Fee Schedule since 1987. As a result, medical services which are provided by the WCD would be more costly if the HSS preferred provider rates were applied.

This situation is subject to change in the immediate future. As part of recent State legislation, the Division of Industrial Accidents has promulgated a new workers compensation fee schedule which will take effect on March 1, 1994. The new fee schedule makes major revisions to allowable rates for workers compensation medical services. Thus, existing HSS preferred provider rates should be compared to the new workers compensation fee schedule, to determine whether savings could be realized by applying HSS preferred provider rates to services provided by the WCD.

The HSS and WCD fee schedules discussed above pertain to outpatient services which are provided by non-hospital providers. We estimate that the WCD expended more than \$6 million for hospital services in 1992-93 (including both inpatient and outpatient services). CompAlliance PPO discounts on the services

of these hospitals averaged 20.83 percent. In contrast, the HSS obtains discounts of approximately 50 percent on inpatient hospital services. Therefore, significant savings could potentially be realized by directing workers compensation claimants to the HSS group of preferred provider hospitals for inpatient services.

In order to ensure that the City realizes the most favorable discounts for all of its medical services, the Benefits Administrator should evaluate the respective fee schedules and medical expenditures of the WCD and the HSS, and develop strategies to maximize the use of preferred provider discounts for all employee health care services.

Limits on the Use of Preferred Providers

The discussion above assumes that, if HSS rates were found to be more favorable, the WCD could direct injured City workers to existing HSS providers in order to obtain more favorable prices for medical services. However, this option, although viable, is limited by the fact that, under the State Labor Code, the WCD currently is not permitted to control the employee's choice of medical providers for more than an initial 30 day period.¹

The HSS provides financial incentives to employees to use its preferred medical providers, by requiring a higher financial contribution from employees when preferred providers are not used. It is on this basis that providers are willing to reduce their usual rates, in order to obtain a higher volume of services.

In contrast, under the Labor Code, the City is responsible for the full cost of medical services in the case of work-related injuries, and none of these costs can be imposed on the employee. As a result, it is not possible to provide financial incentives to employees to use the services of preferred medical providers in the case of work-related injuries. Therefore, the City has less "leverage" in directing employees to preferred providers who discount the cost of services in order to receive a higher volume of business.

Although there is currently a 30-day limit on the employer's ability to designate a treating physician, City employees may continue to use preferred providers to whom they are initially referred by the WCD if they are satisfied with the quality of service. In fact, if HSS preferred providers were used, employees would have a greater opportunity to use their personal physicians to treat work-related injuries. Therefore, if HSS preferred provider rates are more favorable than the medical charges which are payable by the WCD, the City should refer workers compensation claimants to HSS preferred providers irrespective of the 30-day statutory limit on the City's ability to designate the treating physician.

Nonetheless, we note that, (1) the volume of WCD services which can be directed to such preferred providers may be limited by the employee's free choice of physicians following the initial 30 day period, and (2) the City must retain the

¹ The 30-day limit on the employer's choice of physicians for work-related injuries will continue to apply unless the City contracts with workers compensation health care organizations to provide services, as discussed in Section 7.3.

administrative capacity to reimburse non-preferred providers under the workers compensation fee schedule.

Avoiding Duplicative Payments by the HSS and WCD

Since health services for City employees are currently paid, under different circumstances, by both the HSS and the WCD, and since there is no formal communication between the two agencies concerning their medical expenditures, the potential exists for duplicative billing of the HSS and the WCD by medical providers.² Duplicative payments by the WCD and the HSS could be made on behalf of any employee who (1) receives medical services provided by the WCD, and (2) is also enrolled in the self-insured City Health Plan which is administered by the HSS. Any provider of medical services to such an employee could submit bills to both agencies, thus exposing the City to the risk of duplicative payment.

The amount of health care expenditures which are subject to such duplicative billing has not been determined. As noted above, duplicative payments would result from reimbursing health care costs through both agencies for that subset of employees who are (1) treated for a work-related injury and, (2) also enrolled in the City Health Plan. However, the HSS indicates that 5,760 active employees of the City, the Unified School District, and the Community College District are enrolled in the City Health Plan. Approximately 16,000 retired employees are also enrolled in the City Health Plan, some of whom may also receive medical services from the WCD, if they were retired on the basis of an industrial disability. This level of City Health Plan enrollment, combined with the fact that the WCD expends \$17.9 million annually for health care costs, suggests that the dollar amount of the City's financial exposure for duplicative payments could be significant.³

To protect against duplicative billing of the WCD and the HSS for medical services provided to City employees, the WCD and the HSS should develop procedures for the regular exchange of expenditure data on behalf of specific individuals, to evaluate whether duplicative payments are made. However, this would be an auditing function which would (1) entail significant labor resources in order to reconcile payment records, and (2) could correct but would not prevent duplicative payments.

² We have not examined HSS records, in addition to WCD records, to determine whether such duplicative payments have occurred. However, the use of a significantly discounted fee schedule by the WCD may create incentives for physicians to submit duplicative bills to the HSS, in order to receive "full" reimbursement for their services.

³ An analysis of WCD and HSS records indicates that, of 639 medical providers (excluding hospitals) whose services were reimbursed by the WCD in 1992-93, 155, or 24.3 percent, are also members of the HSS preferred provider network for the City Health Plan. These 155 providers received a total of \$1,573,534 in WCD payments in 1992-93. In addition, Bay Area hospitals who are members of the HSS preferred provider network received reimbursements of \$1,436,567 from the WCD in 1992-93. Therefore, we estimate that up to \$3,010,101 could have been overpaid annually for the services of WCD providers who were also HSS preferred providers.

A more efficient alternative would be to generate all payments to health care providers through a centralized accounts payable function serving both the WCD and HSS. The feasibility of such centralized payment processing should be evaluated by the recommended Benefits Administrator. The costs associated with implementing such a coordinated or consolidated payment system should be evaluated based on more precise estimates of the extent of any duplicative payments by the HSS and the WCD. At the present time, the financial risk associated with the existing decentralized payment systems is also unknown, but should be compared against the cost of implementing more coordinated payment systems in order to determine the net costs and benefits of such a system.

Potential Consolidation of Administrative Costs

Finally, there is some potential for consolidation of administrative services which are currently provided separately by the WCD and the HSS. For instance:

- **Medical Case Management**

The WCD currently employs a Medical Coordinator who performs medical case management of high cost claims, at an estimated annual cost of \$60,000. However, the total WCD caseload is currently less than 9,000 claims, and the Medical Coordinator medically manages only a small percentage of these claims. In contrast, the HSS obtains medical case management services from a utilization review contractor, Health Care Evaluation, Inc. The HSS estimates the annual cost of these services at \$40,000 on behalf of approximately 7,600 City Health Plan subscribers.⁴

If Health Care Evaluation, Inc. were to medically manage complex workers compensation claims, the services of the WCD Medical Coordinator could potentially be eliminated, at annual savings of approximately \$60,000.⁵ This savings could be offset by an increase of an unknown amount in the fees paid to Health Care Evaluation, Inc., based on the number of workers compensation cases added to their workload. The Benefits Administrator in the Department of Human Resources should examine the relative costs of medical case management services provided by the WCD Medical Coordinator and by Health Care Evaluation, Inc. in order to identify the net effect of consolidating these services.

- **Utilization Review**

The HSS utilizes Health Care Evaluation, Inc. to pre-authorize treatment services whenever total costs are expected to exceed \$500, when expensive diagnostic procedures have been recommended by the physician, or for inpatient hospital services. The cost of these services is estimated at \$119,000 annually, and

⁴ There are approximately 21,000 City Health Plan members, but only 7,600 of these are "subscribers" for purposes of establishing the HSS reimbursement rate to Health Care Evaluation, Inc.

⁵ For Section 7.2 we have recommended that the WCD specifically define the role of the Medical Coordinator and provide specific justification for her continued services. This effort should include an evaluation of potentially consolidating the medical case management services of the WCD Medical Coordinator and HCE, Inc., as discussed above.

City and County of San Francisco



San Francisco City and County Employees' Retirement System Office of The General Manager

February 2, 1994

Mr. Harvey Rose, Budget Analyst
Board of Supervisors
1182 Market Street, 10th Floor
San Francisco, CA 94102

Dear Mr. Rose:

Attached is the Employees' Retirement System's response to the draft management audit of the Workers Compensation Division.

I would like to express our appreciation for the efforts of your staff in this process, and for the opportunity to respond to your report. Please feel free to contact me directly at 554-1520 if you have any questions regarding the response.

Very truly yours,

A handwritten signature in cursive script that reads "Clare M. Murphy".

Clare M. Murphy
General Manager

Attachments

**RESPONSE OF THE
EMPLOYEES' RETIREMENT SYSTEM
TO THE
BUDGET ANALYST'S
MANAGEMENT AUDIT
OF THE
WORKERS' COMPENSATION DIVISION**

Introduction:

At the request of the Board of Supervisors, the Board's Budget Analyst was directed to conduct an independent management audit of the operations of the Employees' Retirement System, including, but not limited to, an analysis of the development of the Employees' Retirement System's Management Information System, the functioning of the Workers' Compensation Program, the status of the Retirement System's Division Manager of the Workers' Compensation Program, and an analysis of how Civil Service examinations for Workers' Compensation positions are administered.

In the period January, 1993 through January, 1994, the staff of the Employees' Retirement System provided extensive cooperation with the staff of the Budget Analyst in responding to the management audit. This included a substantial number of hours spent with senior staff, including the General Manager of the Employees' Retirement System and the Division Manager of the Workers' Compensation Division. In addition, the department responded to numerous requests for documentation and provided unlimited access for the review of all requested materials, documents and staff. The department also facilitated arranging meetings with key external organizations, such as the Noetics Group and the staff of the Franciscan Treatment Room.

In responding to the report of the Budget Analyst, it is essential to note that their report, in part, reflects the current environment for private and public sector Workers' Compensation Programs in California. All programs are currently facing a rapidly exploding crisis of workers' compensation costs, public sector programs continue to be severely impacted by diminishing resources for the execution of legally mandated functions, and the San Francisco Workers' Compensation Program faces a series of unique challenges related to the multi-faceted status of San Francisco as an employer, local demographics and other factors. This dynamic environment continues to be impacted by a number of external factors, including recently adopted changes in State law, the potential impact of health care reform, and technological changes.

The San Francisco Employees' Retirement System operates a legally mandated Workers' Compensation Program. This State-mandated program is also significantly impacted, and controlled, by the State Labor Code and relevant provisions of the San Francisco Charter and Administrative Code. As a result of the current state-wide crisis in workers' compensation costs, this area has been subject to fundamental legislative changes over the past few years. These changes include substantial legislative reform packages since 1989, and as recently as August of 1993. The impact of the recent legislative changes has been to significantly increase the reporting, notice and paperwork requirement of administering claims of injured employees. The full impact of the most recent legislative changes, which take effect in 1994, are still under consideration and are anticipated to result in increased costs to administer the program.

Unfortunately, the authorized budget for the Workers' Compensation Division has not fully reflected the impact of these mandated changes. During the period FY 1989-90 through 1993-94, the budget of the Workers' Compensation Division has remained substantially static until FY 1993-94. The following table summarizes the approved budgets for the period:

**WORKERS' COMPENSATION
GENERAL FUND
5 YEAR BUDGET HISTORY**

OBJECT/TITLE	APPROVED BUDGET 1989-90	APPROVED BUDGET 1990-91	APPROVED BUDGET 1991-92	APPROVED BUDGET 1992-93	APPROVED BUDGET 1993-94
PERSONNEL COSTS	\$1,520,023	\$1,625,220	\$1,739,654	\$1,799,907	\$1,696,745
PROF. SERVICES	436,292	596,292	558,995	1,487,995	3,833,426
TRAINING	500	2,840	3,000	3,000	3,000
OTHER NON-PERSONNEL COST	1,223,395	1,352,443	1,203,850	494,983	\$ 543,599
 TOTAL BUDGET	 \$3,180,210	 \$3,576,795	 \$3,505,499	 \$3,785,885	 \$6,076,770
 NUMBER OF POSITIONS	 37	 37	 37	 36	 35

In recognition of the challenges faced by the Workers' Compensation Division, in 1993, during the development of the FY 1993-94 budget, the Board of Supervisors and the Mayor, at the urging of the Employees' Retirement System, agreed to commit significant new resources to the administration of the Workers' Compensation Program. The addition of \$2,824,625 for securing the services of a Third Party Administrator to assist in the processing of claims amounts to a 90% increase above the budget of the Division for 1992-93. However, this increase in funding did not address serious structural issues properly identified in the report of the Budget Analyst, such as the currently over-burdened management information systems.

This commitment of new resources does reflect a recognition of serious under funding, and under staffing, of the Workers' Compensation Division in prior fiscal years. In light of the current management audit by the Budget Analyst, it is axiomatic to assume that an agency undertaking a highly labor intensive task, in a rapidly changing, dynamic and highly regulated environment would exhibit less than an ideal execution of all management tasks confronting the

organization. This situation is compounded when the organization is faced by inadequate resources, including staffing and technological resources. Finally, this situation is exacerbated almost to the breaking point when the organization's management resources and structure are severely diminished as a result of budgetary reductions; e.g. the positions of Deputy General Manager, Workers' Compensation Claims Manager, and Senior Management Assistant were all eliminated in the FY 1993-94 budget.

While the Workers' Compensation Program has been integrated into the Employees' Retirement System since the inception of the program, it has never been fully funded as an operating division. The Retirement System has provided resources in the areas of management, accounting, management information systems and other support services. The consequences of this past relationship must be factored into any proposed transfer of responsibility to the Department of Human Resources.

Despite these challenges, the audit results reflect an agency that has consistently sought to accomplish its primary mission -- the expeditious compensation of injured employees -- despite budget reductions, staffing shortages, and shifting legal mandates. The department wishes to note that the Budget Analyst has not identified any key areas of cost containment which are not currently in place to limit workers compensation costs for the City and County of San Francisco. The Budget Analyst has properly identified a number of areas where additional resources should be focused, and areas where the department should focus to improve its internal functioning and that may increase the effectiveness of cost control activities.

Proposition L passed on the November, 1993 ballot and empowers the Board of Supervisors to transfer the Workers' Compensation functions to the newly created Department of Human Resources. The Budget Analyst report recommends that the proposed transfer be authorized by the Board through an implementing ordinance. The department has withheld direct comment on recommendations directed towards other departments, but remains available to assist these departments in evaluating or implementing these recommendations. The following sections contain the department's comments on the recommendations of the Budget Analyst directed to the Workers' Compensation Division or the Employees' Retirement System.

1 Organization Alternatives

In Section 1, Organizational Alternatives, the Budget Analyst report considers the issue of disability retirements and recommends the City Attorney review the possibility of transferring functions related to disability retirements to the newly created Department of Human Resources. In responding to this recommendation, it is essential to note that while workers' compensation claims may lead to Industrial Disability Retirements (IDR's), in some circumstances the benefits, legal basis and determination process are distinct for each. Once decided, IDR's result in the payment of lifetime pension benefits similar in processing requirements to all other pension benefits. Lifetime medical benefits are required by state law, and remain a Workers' Compensation Division cost whether or not an IDR is granted. Assuming the provisions of

Proposition L are implemented, the Workers' Compensation Division, Department of Human Resources and the Employees' Retirement System will need to closely coordinate to ensure appropriate handling of IDR applications and payments. This recommendation may require further analysis, in that the recommendation that the administration of disability retirement benefits be transferred to the newly created Department of Human Resources is fundamentally inconsistent with the appropriate management and oversight of pension benefits as defined in Charter Sections 8.500 - 8.590-7.

1.2 Procurement of Claims Administrative Service

The department tentatively agrees with the recommendation of the Budget Analyst to negotiate with the Noetics Group for continued administration of workers' compensation claims beyond the expiration of the current contract. The department has been conducting quarterly audits of the Noetics Group and will continue to monitor the firm's progress. At this point they show continued improvement in claims processing and management. Numerous City departments have reported a very positive response to the Noetics staff and claims handling. The department will continue to actively monitor and evaluate the contract, and depending on the continued positive results of our monitoring process, will support the recommendation to continue the contract.

2 Policy and Procedures Manual/Personnel Issues/Training

The department is currently reviewing and updating a draft procedures manual developed by Noetics. Revisions will include the 1993-94 reform legislation, and use the claims procedures common to the workers' compensation industry and will form the basis for the development of a more complete Workers' Compensation Division policy and procedures manual.

As Civil Service employees, employees of the Workers' Compensation Division are governed by applicable Civil Service policies and regulations. Despite budgetary restrictions, including recent reductions in staffing, the Department has sought to address employee concerns regarding promotional opportunities and personnel policies. Consistent with existing Civil Service Commission regulations and policies, the Department supports the goal of enhancing staff development activities. In support of this goal the Department is in the process of implementing a comprehensive program designed to address staff development, including training and activities designed to enhance the retention and promotion of employees. The Management and Employee Development Division of the Department of Human Resources has been actively involved in this process since September of 1992. With the assistance of the Management and Employee Development Division the Department has established an Employee Committee to address employee concerns, held meetings to improve communication with employees, and has scheduled a series of trainings designed to enhance team building, promotional opportunities and retention. The Department would support the continuation of this existing process under the Department of Human Resources.

The personnel actions reviewed in these recommendations, including promotions, exams, position qualifications, and classifications, have previously been reviewed, considered, and in some cases initiated by, the Civil Service Commission. It is the position of the Department that all appropriate Civil Service Commission rules and regulations, particularly those related to exams, have been followed. The recommendation that these personnel actions be reconsidered, and corrective actions taken by the Department of Human Resources, is a determination best made by the Department of Human Resources following a review of prior actions.

All of the examiners who have not completed the recommended training certification program will be enrolled, provided the budget is increased to \$26,280.

The department will survey the adjusters and develop necessary in-house training which will be adapted to fit the areas of identified weakness. All adjusters and trainees have had classes in the new reform act. The one on one training will continue as part of a normal supervisor/adjuster relationship. Continuing lectures by physicians and workers' compensation experts will be scheduled.

The \$547 reference materials will be purchased for those adjusters who do not already have them.

3.1 Determining Liability for Workers Compensation Claims

The IEA training course recommended by the Budget Analyst, in addition to the 20 hours of in-house training will provide the expertise the adjusters need to decide whether claims can be negotiated and denied.

The denial committee, consisting of least two workers' compensation managers, approves all denial of workers' compensation claims, and reviews denials with claims adjusters, in order to prevent inappropriate denials.

Initial treatment facility doctors are aware of all departments who have modified duty programs.

3.2 Temporary Disability Benefits

The Division is constantly evaluating the performance of physicians in determining whether injured workers are being returned to work appropriately, and of late has been more aggressive in finding new physicians and has stopped using the ineffective physicians.

The Qualified Rehabilitation Representative (QRR) has specific assignments in seeing that claims involving rehabilitation benefits are handled properly. She also oversees the reporting of all rehabilitation activity to the State Division of Workers' Compensation.

Because of these responsibilities, the QRR does not have the time available to develop a modified duty program.

This is an area which we can review after determining how the rehabilitation reform rules impact the activity of the QRR.

3.3 Control of Medical Treatment

The Workers' Compensation Division will provide specific justification for the resources of a medical coordinator in order to continue these services after fiscal year 1994-95.

All of the surgical and hospitalization claims are reviewed by the medical coordinator, who creates a file. Procedures concerning the process of utilization review will be written as a part of the policy and procedures manual.

Physical therapy has been an area of concentrated effort for the Division since Noetics assumed control of half of our caseload in June of 1993. We have contacted several physical therapy organizations, but most of them offer only small discounts and don't control length or extent of physical therapy. We concentrate on obtaining medical opinions on limiting the extent of physical therapy, if we can't convince the attending physician that it should be terminated.

The State legislature has recognized physical therapy over-utilization as an industry-wide problem when they restricted the use of physical therapy which is prescribed by a physician with a financial interest in the therapy office.

A relatively new concept in the field of treatment is the concept of a guaranteed rate for treatment of a specific type of claim. For example, all routine back injuries would be treated for a fixed cost per injury. This fixed price per injury system, we feel will limit the amount physical therapy and ancillary treatment on claims. We plan to consider this when preparing the RFP for the initial-care facility.

3.4 Permanent Disability

The Budget Analyst indicates there is no area where previous permanent disability awards are to be found.

When a workers' compensation claim is initiated, a claim inventory sheet listing all previous injuries becomes a part of the file.

Where it becomes apparent that an injured worker has suffered a permanent disability under the workers' compensation law, all of the previous claims of a similar nature are requested from Deliverex, the claims storage facility, and are reviewed in order for us to apportion some of the

permanent disability to the previous injury. This system has always been in place in the workers' compensation division.

All of our claims adjusters and trainees have completed the permanent disability rating course.

3.5 Vocational Rehabilitation

The rehabilitation coordinator has monitored the program very effectively. In the OBAE audit we received only one penalty in the whole area of statistics, meetings, etc. The average cost of rehabilitation plans in California prior to 1/1/94 was \$23,000. The Division may have 30 to 40 rehabilitation plans active at any point in time. Recent reform (1/1/94) limits the cost of a program to \$16,000.

Every major self-insured entity has a rehabilitation coordinator assigned to direct their program. We are following industry standards. PG&E, by contrast has seven to eight in-house coordinators working in their program, we have one, and so does Noetics.

The Division medical coordinator monitors the invoices of the vocational counselors to see that appropriate fees are paid to counselors. She also approves our list of QRRs and selects those with proven success. Until we are confident that our adjusters are knowledge enough to go to rehabilitation conferences, negotiate plans, etc., we plan to follow the industry standard for large self insured and workers' compensation carriers, and use the services of a coordinator. If is possible, we would prefer a Civil Service position, but several requests for this in the past have failed due to budgetary restraints.

4 Administration of Disability Retirement Benefits

The industrial disability retirement process is an individual claim process. State law provides criteria for determining industrial nature of disabling condition. Employees' Retirement System Charter as interpreted by City Attorney, applicant's attorney and finally hearing officer determine whether disability is severe enough to require retirement. Workers' Compensation Division is not responsible for the processing of Industrial disability retirement claims and is not responsible for determination of grant or denial of industrial disability retirement.

While a more fully funded Workers' Compensation Division and one structured within Department of Human Resources can be asked to engage in coordination of modified duty programs, return to work plan design Americans with Disability Act coordination and integration and MIS data reporting for all City departments, the current Workers' Compensation Division is funded to a level only allowing compliance with State Labor Code provisions from time of injury to the resolution of the claim.

The recommendation that "inherent duty of Workers' Compensation Division is to provide ongoing policy guidance in the area of light duty" assumes that Workers' Compensation Division is able to know 50+ department structures and over 1200 job classifications to effectively identify light duty (modified duty) opportunities. This task may be more feasible in Department of Human Resources with specialized job classification and personnel skills; however, departments really control accommodation decision and control limited duty programs. The assessment of disparate assignment to light duty positions reflected between Fire, Police and Sheriffs departments presumes an equal availability of limited duty assignments within each department. The duties of each work force must carefully analyzed in order to identify appropriate limited duty positions.

The recommendation that Employees' Retirement System institute a policy providing that effective date of retirement be established on the date that medical evidence is obtained of permanent disability requires further legal review. Employees' Retirement System will meet with Department of Human Resources and City Attorney to review legal options to encourage the early filing of Industrial disability retirement application by the Department and/or injured worker as soon as the severity of disability is determined.

5 Establish Integrated Management Information System

The Department is currently actively working with the Controller and with current vendors to eliminate inefficiencies in existing management information systems. In the past, these efforts have been hindered by a lack of resources, specialized expertise, and issues related to the control and integration of various systems. The Department has previously been unsuccessful in obtaining sufficient staff resources to effectively evaluate and implement a fully integrated management information system. While significant resource issues remain unresolved, the Department supports the recommendation that it should continue to actively work with the Controller to develop an integrated system, including appropriate accounting controls. The Department can provide substantial assistance in identifying the particular needs and necessary features of an effective integrated system.

The Department is currently reviewing the utilization of data generated by the current management information systems. As a result of this process, it is anticipated that the recommended monthly statistical reports will be available as of March 1, 1994. The lack of an integrated personnel system, and related management information systems that are not fully consistent with their original design. The Department supports the recommendation that efforts be made to define data requirements and functional requirements for an integrated system in cooperation with Workers' Compensation Task Force, Risk Manager, The Noetics Group and key City departments.

6 Contracting Procedures

The Department fully supports the recommendation that contracting procedures be reviewed to eliminate any possible unnecessary or duplicative services and to ensure that contracts are awarded on a competitive basis. As a result of the highly technical and specialized nature of contracts for the provision of medical services, the Department would further recommend that an adequate level of staffing, expertise and resources be provided to the Department of Human Resources to ensure that these recommendations may be fully implemented. As a result of the lack of these resources in the past the Department has been unable to achieve maximum utilization of contracted services.

7 Comparative Costs and Preferred Provider Discounts

There is a commitment on the part of workers compensation division to do an RFP this fiscal year. This commitment and the fact that we do not have the expertise to do negotiating of these contracts, we feel a new contract should follow the initial treatment center selection process. It would also be extremely costly and chaotic to cancel the existing contract and suggest that injured employees seek their own medical treatment. Injuries would be reported late, no discounts would be available, and there would be no monitoring of medical treatment.

The area of expertise of negotiating also impacts our ability to negotiate the preferred provider discounts with all referral physicians. This is a particularly sensitive area because of our reliance on these physicians. Finally, we feel this preferred provider would be a project in and of itself requiring additional resources.

The medical coordinator, under the direction of the WCD Division Manager, has negotiated a rate of \$725, which is lower than any self-insured agency we are familiar with. We will contact health service, and if necessary get an opinion from the City Attorney's Office to determine whether we can negotiate a \$618 rate for MRI procedures.

7.2 Alternative Health Delivery System

The Budget Analyst report recommends that the department initiate a competitive selection process for a medical facility for the initial evaluation and treatment of injured workers, the development of a preferred provider network of treating physicians who are independent of the medical facility which provides initial evaluation, and recommends the immediate addition of a Health Care Analyst position to the staff of the Workers' Compensation Division. The Department is currently in the active process of developing a competitive Request For Proposals (RFP) process for the provision of initial evaluation and treatment of injured workers. Factors currently being considered by the department in the preparation of the RFP include recent changes in State law, including optional Health Care Organization structures provided for in the

recent reform legislation, and proposed managed care and health care reforms currently under formulation at the state and federal levels.

The isolation of a preferred provider network of treating physicians from the initial evaluation facility presents a range of problematic issues that require further analysis. Implementation of this recommendation may have a significantly adverse impact on the availability and quality of responding initial treating facilities. In addition, the proposed changes to the existing preferred provider network may require a commitment of additional resources to ensure sufficient resources and expertise to successfully negotiate the proposed network of physicians.

As described in the Budget Analyst report, the proposed Health Care Analyst position represents a substantial addition of new functions and responsibilities not currently resident in the Workers Compensation Division. In order to avoid duplication of existing services and unnecessary cost, the nature and location of these responsibilities, and the possible need for a new position, should best be determined after a review of the need for these services by the Department of Human Resources, Health Services System and Department of Public Health.

Conclusion:

The Employees' Retirement System and Workers' Compensation Division management team have been actively working in cooperation with Wendell Pryor, the Human Resources Director, and representatives of the Mayor's Office to identify issues arising from a proposed implementation of the transfer of the Workers' Compensation Division as authorized in Proposition L. The department will continue to work to ensure completion of the division's primary mission that injured workers are provided proper benefits under law in a timely manner, while working to minimize the cost of the Workers' Compensation Program for the City and County of San Francisco.

Appendix I: Survey of Other Jurisdictions

I. Supporting Documentation

1. If available, please provide an organizational chart for your workers compensation program which indicates the number of executive, managerial, and staff positions.
2. Please attach a copy of the 1991-92 budget for your workers compensation program, if available.
3. Please attach copies of your Self-Insurer's Annual Report (page 2 only) for:

FY 89-90

FY 90-91

FY 91-92

4. Please provide the most recent written job descriptions which are currently available for the job classifications (particularly supervisors and claims adjusters) within your Workers Compensation program.

II. Organization & Procedures

1. Please indicate the City or County department in which your workers compensation program is located:

- Risk Management
- Human Resources
- Retirement
- Health Services
- Other: _____

2. Please indicate any other divisions or programs which are located in the same City or County department as the workers compensation program:

- General Liability Insurance
- Retirement
- Employee Health and Safety
- Employee Relations
- Other: _____

3. Does your City or County have a formal Employee Health and Safety program, or other Injury and Accident Prevention Program? YES NO

If yes, how would you rate the effectiveness of this program in preventing work-related accidents and injuries?

Poor Average Excellent

4. Do adjusters, supervisors, and/or departmental representatives routinely meet to discuss workers' compensation/claims handling issues?

YES NO

If yes, please describe which groups meet on a routine basis, how often they meet, and the purpose of the meetings:

5. Is State certification a requirement for initial employment as an Adjuster and/or Supervisor?

Adjuster	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Supervisor	YES <input type="checkbox"/>	NO <input type="checkbox"/>

6. If certification must be obtained by an adjuster within a specified time following the date of hire, please specify the time period allowed to obtain certification: _____

7. Please describe your use of each of the following training methods:

(a) **Formal in-house training** (lectures, classes, etc.) _____

Average weeks of training upon hiring _____

Average weeks of training on an annual basis: _____

(b) **Informal, on-the job training** _____

(c) **Professional development courses** _____

(d) **Other** _____

8. If you conduct training internally, please list three or four main topic areas which have recently been addressed in your training program:

- 1) _____
- 2) _____
- 3) _____
- 4) _____

9. Who conducts any in-house training which you may provide (i.e. Personnel, Workers' Compensation supervisor, outside training services, etc.)?
-
-

III. Claims Administration

1. Do you utilize the services of a Third Party Administrator for any of your claims? (If not, please continue with Question no. 3).

If you do utilize a TPA, please indicate:

2. What was the total cost of the TPA contract in 1991-92? \$ _____
How many claims were administered by the TPA for this fee? _____

What is the budgeted or actual cost of the contract for 1992-93? \$ _____
How many claims will be administered by the TPA for this fee? _____

Are the services of the TPA limited to certain types of claims? If so, which claims:

3. In 1991-92, how many claims adjusters (FTEs) were assigned to claims processing activities in your workers compensation program?
-

What was the average caseload for each of your claims adjusters in 1991-92?

4. On what basis are claims assigned to adjusters (check all that are applicable):

Experience level of claims adjuster

Employee's Department

First letter of employee last name

Randomly

Other (please explain) _____

5. Do supervisors review new claims before they are assigned to claims adjusters? YES NO

Alternatively, do adjusters review claims prior to any initial review by supervisors? YES NO

6. Do claims adjusters have access to the following reference materials (check all that are applicable)?

Medical dictionary

Merck Manual

Physicians Desk Reference

Maps (for mileage reimbursements)

Labor Code references/other statutes

Internal Claims Procedure manual(s)

Published Claims Procedure manual(s)

Other: _____

7. To the best of your knowledge, which of the following publications are (1) kept at the desks of most or all of your claims adjusters for their individual use, or (2) kept in a shared reference area at your offices?

Kept at desks
of all or most
claims adjuste

Available in a
reference area

Title:

□

□

Workers' Compensation Claims Desk Book, by Gwen Hampton.

A small, empty square box with a thin black border, likely a placeholder for an image or diagram.

1

California Workers' Compensation Law Handbook. by Stanford Herlick.

□

□

Official Medical Fee Schedule: California Workers' Compensation Institute.

□

Schedule for Rating Permanent Disabilities: State of California, Department of General Services.

1

□

Workers' Compensation Laws of California (Labor Code, Rules & Regulations, and Rules of Practice and Procedure): Matthew Bender.

Other:

8. Do you employ nurses or other medical or health professionals to adjust or review medical claims? YES NO

If yes, please explain: _____

9. In what situations, if any, are claims adjusters instructed that they should always consult with a supervisor (or some other party, such as the City Attorney or County Counsel)?

For delay of claims beyond 14 days	<input type="checkbox"/>
To initiate a formal/intensive investigation	<input type="checkbox"/>
For denial of claims as non-industrial	<input type="checkbox"/>
For denial of claims for any other reason	<input type="checkbox"/>
For interpretations of case law	<input type="checkbox"/>
For answers to Application for Adjudication	<input type="checkbox"/>
For settlement of claims by Stipulation	<input type="checkbox"/>
For settlement based on Compromise & Release	<input type="checkbox"/>

Comments: _____

10. Please indicate which of the following Workers' Compensation functions are performed manually and which are automated.

(a) Case history and notes:	manual <input type="checkbox"/>	automated <input type="checkbox"/>
(b) Payment & reserve information:		
Indemnity payments	manual <input type="checkbox"/>	automated <input type="checkbox"/>
Medical payments	manual <input type="checkbox"/>	automated <input type="checkbox"/>
Reserve Information	manual <input type="checkbox"/>	automated <input type="checkbox"/>
(c) Medical Treatment History	manual <input type="checkbox"/>	automated <input type="checkbox"/>
(d) Diary/case reminder system:	manual <input type="checkbox"/>	automated <input type="checkbox"/>
(e) Management Reports:	manual <input type="checkbox"/>	automated <input type="checkbox"/>

11. How often are cases reviewed and/or what criteria are used to trigger additional case review?

Medical only: _____

Temporary disability: _____

Permanent disability: _____

Additional Comments: _____

12. If you routinely generate management reports for use within your program, please briefly summarize the type of information you generate, how often, and its use:

13. If you routinely generate management reports for use by other City or County agencies, please briefly summarize the type of information you generate, how often, and its use:

14. Does your workers compensation unit directly issue payments to recipients?

YES NO

If not, who issues the payments to recipients? _____

IV. Medical Services

1. Do you primarily use a single medical provider, such as a specific hospital, to provide employer-designated treatment and consultations? YES NO

2. Does your workers compensation unit treat claims differently when the physician is designated by the employee rather than the employer? Please explain:

3. Supplemental medical reports from an employee's physician are required at least every 45 days during active treatment, by regulation [RR §9785(c)]. To what extent is this schedule actually observed among all the indemnity claims that you administer?

Rarely (0-25%)	Occasionally (25-50%)	Frequently (50-75%)	Usually (75-100%)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. What criteria do adjusters use in requesting claimants to undergo medical consultations "at reasonable intervals" pursuant to Section 4050 of the Labor Code? _____

5. Please estimate, to the best of your ability, the percent of your temporary disability claims in which medical consultations are requested by an adjuster, in addition to the Doctor's First Report and any supplemental medical reports provided by the physician: _____ %

6. Do you employ the services of a medical bill review company? YES NO

If known, how significant is the cost savings to you for such a service? _____

7. What measures are taken to ensure that the medical claims paid by the workers compensation program are not also being paid (as non-industrial claims) by other health insurance which is available to the worker?

8. Please describe other medical cost containment measures you have implemented in your Workers' Compensation program. _____

V. Modified or Light Duty Programs

1. Are all departments required to have "light duty" or "modified duty" programs? YES NO

If not, why not? _____

2. Can your workers compensation unit require employees to participate in "light duty" or "modified duty" programs? YES NO

If not, why not? _____

3. How intensively do City or County departments work with the workers compensation program to develop and implement light duty programs?

- Rarely
- Occasionally (i.e. informal meetings or conversations)
- Often (i.e. formal program or dedicated efforts)

4. If known, what percentage of your temporary disability claimants participate in light duty programs? _____ %

5. Please also provide any additional details which may help us to understand how light duty programs are implemented in your jurisdiction:
- _____

VI. Quantitative Measures

1. What is the average age of an open Temporary Disability claim?
(Please specify days, weeks, or months): _____

2. If known, what is the average number of lost work days resulting from Temporary Disability claims only?
Lost Workdays from Temporary Disability: _____

3. If known, what percent of your Temporary Disability claims filed in 1991-92 were:
Delayed: _____ %
Denied: _____ %

4. Approximately what percent of your temporary and permanent disability claims were appealed or litigated in 1991-92?
Pct. of TD claims: _____ %
Pct. of PD claims: _____ %

5. Approximately what percent of your total claim costs in 1991-92 were attributed to Medical Only claims?
Total payments in 1991-92: \$_____ · Medical Only Costs = _____ %

Thank you very much for your cooperation.

Appendix II: Employees Retirement System Staff Survey

Appendix 2.1: Employees Retirement System Staff Survey

Appendix 2.2: Workers Compensation Claims Examiner Supplement

EMPLOYEES RETIREMENT SYSTEM

STAFF SURVEY

This survey is being conducted as part of a management audit of the Employees Retirement System by the Board of Supervisors Budget Analyst. All individual survey responses will be kept strictly confidential and will not be disclosed to the Employees Retirement System, the Board of Supervisors, or any other party. The information which is provided will be used to provide an overall analysis of employee opinions and suggestions.

General Background

1. Are you classified by Civil Service as a permanent or temporary employee of the Employees Retirement System? PERMANENT TEMPORARY
2. If you are a permanent employee, please answer questions (a) and (b):
 - (a) What is your current Civil Service classification? _____
 - (b) When did you take the Civil Service exam for this position? _____
3. When were you hired by the Employees Retirement System? _____
4. Please indicate the Division of the Employees Retirement System in which you are currently employed:

- | | |
|-------------------------------|--------------------------|
| Accounting Division | <input type="checkbox"/> |
| Administration Division | <input type="checkbox"/> |
| Investment Division | <input type="checkbox"/> |
| Retirement Services Division | <input type="checkbox"/> |
| Workers Compensation Division | <input type="checkbox"/> |

5. What is the approximate length of time you have been employed in your current position at the Employees Retirement System?

Less than 1 year
1 year to 3 years
3 years to 5 years
5 years to 10 years
Over 10 years

6. Please describe your specific job duties: _____

Training

7. Did you receive training for your position at the time you were hired?

YES NO

If you did receive training for your position when you were hired, please rate the quality of the training on the following scale from 1 to 5:

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

What type of training did you receive at the time you were hired?

8. Have you received subsequent training since you were hired for your position through the Employees Retirement System or any other City department?

YES NO

If you have received additional training, please rate the quality of the additional training on the following scale from 1 to 5:

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

What type of subsequent training have you received?

9. Approximately how often have you received training from the Employees Retirement System related to your position? (e.g. every 6 months, once a year, etc.)
-
-
-

10. On a scale from 1 to 5, how would you rate the importance of having regular training activities for the duties of your position (without regard to whether or not such training is currently provided)?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Unnecessary	Not Important	No Opinion	Somewhat Important	Essential

Please explain: _____

Evaluations and Promotions

11. When did you receive your last performance evaluation? _____
12. On a scale from 1 to 5, how would you rate the evaluation process in terms of including your input in evaluating your own performance, setting personal goals, etc.?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain: _____

13. On a scale from 1 to 5, how would you rate the fairness of the performance evaluation which you received?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Very Unfair	Unfair	Fair	Very Fair	Excellent

Please explain: _____

14. On a scale from 1 to 5, how would you rate the fairness of promotional opportunities in the Division where you work?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Very Unfair	Unfair	Fair	Very Fair	Excellent

Please explain: _____

Department Operations

15. On a scale from 1 to 5, how would you rate the overall working environment in the Division where you work (i.e., how does the organization influence your overall ability to perform your work in an effective manner?):

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain: _____

16. On a scale from 1 to 5, how would you rate the overall quality of general management practices within the Division where you work? (General management practices include the quality of policies and procedures; the quality of general supervision and advice; the quality of communication with staff; the use of effective problem-solving techniques.)

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain: _____

17. On a scale from 1 to 5, how would you rate the quality of the administrative procedures that you use to perform your job duties? (Administrative procedures refer to the tasks that you perform in order to accomplish your job duties.)

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain: _____

18. Do you believe that any of the administrative procedures related to your job duties could be improved? YES NO

If yes, please explain:

19. In your opinion, are your supervisors and managers receptive to employees' suggestions for improvements? YES NO

20. Have you personally made suggestions for improvements that have been implemented?

YES NO

Please explain:

21. On a scale from 1 to 5, how would you rate the availability of written policies and procedures provided by the E.R.S. in helping you to understand and perform the duties of your position?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain: _____

22. On a scale from 1 to 5, how would you rate the quality of written policies and procedures provided by the E.R.S. in helping you to understand and perform the duties of your position?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain: _____

23. On a scale from 1 to 5, how would you rate the importance of having written policies and procedures for the duties of your position (without regard to whether or not such written policies and procedures are actually available)?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Unnecessary	Not Important	No Opinion	Somewhat Important	Essential

Please explain: _____

24. On a scale from 1 to 5, how would you rate the quality of supervision that is provided to you:

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain: _____

25. On a scale from 1 to 5, how would you rate the level of autonomy that you are given in the Division where you work:

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

If you desire either more or less autonomy in performing your job duties, please explain: _____

26. On a scale from 1 to 5, how would you rate the amount of communication between supervisors and staff?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain: _____

27. On a scale from 1 to 5, how would you rate the quality of communication between supervisors and staff?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain: _____

28. On a scale from 1 to 5, how would you rate employee morale in your Division, and in any other Divisions with which you are familiar?

	<u>Excellent</u>	<u>Good</u>	<u>No Opinion</u>	<u>Fair</u>	<u>Poor</u>
Accounting Division	<input type="checkbox"/>				
Administration Division	<input type="checkbox"/>				
Investment Division	<input type="checkbox"/>				
Retirement Services Division	<input type="checkbox"/>				
Workers Compensation Division	<input type="checkbox"/>				

Please explain: _____

29. Please provide any suggestions you may have which would, in your opinion, improve the operations of the Employees Retirement System:

Your Name (Optional): _____

EMPLOYEES RETIREMENT SYSTEM

STAFF SURVEY

Workers Compensation Claims Examiner Supplement

This survey is being conducted as part of a management audit of the Employees Retirement System by the Board of Supervisors Budget Analyst. All individual survey responses will be kept strictly confidential and will not be disclosed to the Employees Retirement System, the Board of Supervisors, or any other party. The information which is provided will be used to provide an overall analysis of employee opinions and suggestions.

Name (Optional): _____

Background

1. Please describe your previous experience in workers compensation claims administration, prior to your employment with the Employees Retirement System:

<u>From</u>	<u>To</u>	<u>Job Description</u>
-------------	-----------	------------------------

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. Have you obtained the California self-insured certificate? YES NO

If YES, how long have you been certified? _____

Training

3. Since you were hired, have you received training provided by the Workers Compensation Division related to the legal and procedural requirements for adjusting claims?

YES NO

4. If you have received training provided by the WCD, please indicate, to the best of your ability, the dates you received this training, the subject matter of the training, and the quality of the training:

<u>Date</u>	<u>Description</u>		
(1) _____	_____		
	Outstanding <input type="checkbox"/>	Satisfactory <input type="checkbox"/>	Poor <input type="checkbox"/>
(2) _____	_____		
	Outstanding <input type="checkbox"/>	Satisfactory <input type="checkbox"/>	Poor <input type="checkbox"/>
(3) _____	_____		
	Outstanding <input type="checkbox"/>	Satisfactory <input type="checkbox"/>	Poor <input type="checkbox"/>
(4) _____	_____		
	Outstanding <input type="checkbox"/>	Satisfactory <input type="checkbox"/>	Poor <input type="checkbox"/>
(5) _____	_____		
	Outstanding <input type="checkbox"/>	Satisfactory <input type="checkbox"/>	Poor <input type="checkbox"/>

5. If you have received training provided by the WCD, which subjects have been most beneficial to you?

6. In what subjects, if any, would you like to receive additional training?

7. Do you believe that additional training would improve your ability to adjust claims, and thereby reduce the City's cost for workers compensation claims? If so, please explain (please be as specific as possible):

Claim Assignments and Caseloads

8. Please list the departments whose claims are assigned to you:

Prior to Third Party Administration

Currently (with TPA)

9. On a scale from 1 to 5, please indicate your overall level of satisfaction with the fairness and appropriateness of the WCD's procedures for assigning claims to individual adjusters:

1

Poor

2

Fair

3

Satisfactory

4

Good

5

Excellent

Please explain: _____

10. What effect, if any, have your caseloads had on your ability to adjust claims effectively and in a timely manner? (Please be as detailed and specific as possible.)

11. On average, how many separate claims are you able to examine each week?

12. On a scale from 1 to 5, please indicate your overall level of satisfaction with the availability of reference materials which, in your opinion, are needed for the effective examination of claims.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain:

13. On a scale from 1 to 5, please indicate your overall level of satisfaction with the quality of consultation and advice which is provided to you by the WCD when you have questions concerning specific issues or problems.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain:

Please indicate your responses to the following 2 questions by using the rating scale shown below and circling your appropriate response:

Poor 1	Fair 2	Satisfactory 3	Good 4	Excellent 5
-----------	-----------	-------------------	-----------	----------------

14. On a scale from 1 to 5, how would you rate the amount and quality of review that your claims have received at the Workers Compensation Division, compared to the level of review you believe they should receive?

Rating (see chart above)

<u>Before</u> claims were assigned to the Noetics Group	1	2	3	4	5
<u>Currently</u> (with Third Party Administration)	1	2	3	4	5

Please explain: _____

15. On a scale from 1 to 5, please rate your ability to "stay on diary," given your caseloads:

Rating (see chart above)

<u>Before</u> claims were assigned to the Noetics Group	1	2	3	4	5
<u>Currently</u> (with Third Party Administration)	1	2	3	4	5

Please explain: _____

Contact with City Departments

16. Please list any departments with which you communicate on a regular basis (i.e. daily, weekly, or monthly), and indicate the reason(s) for these contacts:

<u>Department</u>	<u>Frequency of Contact</u>	<u>Reason</u>

17. On a scale from 1 to 5, how would you rate the effectiveness of your assigned departments in assisting you in your claims handling process? (You may rate departments separately or treat them as a whole.)

<u>Rating</u>	<u>Name of Department(s)</u>
1) <input type="checkbox"/> Very Effective	_____
2) <input type="checkbox"/> Somewhat Effective	_____
3) <input type="checkbox"/> No Opinion	_____
4) <input type="checkbox"/> Somewhat Ineffective	_____
5) <input type="checkbox"/> Very Ineffective	_____

If you classified any of your assigned departments as "(4) somewhat ineffective" or "(5) very ineffective," please explain why you believe your departments are unable to assist you more effectively in your examination of claims:

18. Do any of your assigned departments have a light duty program for injured employees? If so, which departments? _____

19. On a scale from 1 to 5, how would you rate the effectiveness of these light duty programs in reducing the employee's time away from work?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain: _____

Reference Materials

20. Do you have access to the following reference materials? (check all that apply)

	<u>Have a copy at your desk</u>	<u>Available in a Reference Area</u>
Medical dictionary	<input type="checkbox"/>	<input type="checkbox"/>
Pharmaceutical Guides	<input type="checkbox"/>	<input type="checkbox"/>
Maps (for mileage reimbursements)	<input type="checkbox"/>	<input type="checkbox"/>
Labor Code references/other statutes	<input type="checkbox"/>	<input type="checkbox"/>
Workers Compensation Division claims procedure manual(s)	<input type="checkbox"/>	<input type="checkbox"/>
Published Claims Procedure manual(s)	<input type="checkbox"/>	<input type="checkbox"/>
Merck Manual	<input type="checkbox"/>	<input type="checkbox"/>

- 21 Which of the following publications are (1) kept at your desk or (2) accessible to you in a shared reference area within the Workers' Compensation Division?

	<u>Have a copy at your desk</u>	<u>Available in a Reference Area</u>
Workers' Compensation Laws of California <input type="checkbox"/> (Labor Code, Rules & Regulations, etc.): Matthew Bender		<input type="checkbox"/>
Workers' Compensation Claims Desk Book , by Gwen Hampton	<input type="checkbox"/>	<input type="checkbox"/>
California Workers' Compensation Law Handbook , by Stanford Herlick	<input type="checkbox"/>	<input type="checkbox"/>
Schedule for Rating Permanent Disabilities : State of California, Department of General Services	<input type="checkbox"/>	<input type="checkbox"/>
Official Medical Fee Schedule : California Workers' Compensation Institute	<input type="checkbox"/>	<input type="checkbox"/>
Other _____		

22. What types of additional resources and information, if any, would be useful to you in your work?
-
-
-
-

Claim Examination Procedures

23. Please indicate how often (on average) you took each of the following actions in adjusting indemnity claims, prior to inception of Third Party Administration, by using the rating scale shown below and circling the appropriate response:

Almost Never 1	Occasionally 2	Often 3	Usually 4	Almost Always 5
-------------------	-------------------	------------	--------------	--------------------

Actions:	Frequency (see chart above)
Review Doctor's First Report of Injury	1 2 3 4 5
Review Employer's First Report of Injury	1 2 3 4 5
Initiate personal contact with physician	1 2 3 4 5
Initiate personal contact with employer	1 2 3 4 5
Initiate personal contact with employee	1 2 3 4 5
Request medical consultation (LC Section 4050)	1 2 3 4 5
Discuss treatment plan with employee's physician	1 2 3 4 5
Establish initial reserve amounts	1 2 3 4 5
Adjust reserves based on relevant case developments	1 2 3 4 5
Review medical records for appropriateness of treatment	1 2 3 4 5
Review medical bills for appropriate cost of treatment	1 2 3 4 5
Review previous claim history of the employee	1 2 3 4 5
Request previous medical records of claimant	1 2 3 4 5
Prepare complete notes of new activity in file	1 2 3 4 5
Respond to new diary date within 2 work days	1 2 3 4 5
Respond to new diary date within 5 work days	1 2 3 4 5
Assign new diary date even if all current issues have not been resolved	1 2 3 4 5
Discuss return to work options with employee's department	1 2 3 4 5

24. Have you received instructions concerning how your examination of claims should be modified as a result of the assignment of claims to the Third Party Administrator?

YES NO

If so, please describe the type of instructions or guidance that you have received:

-
-
-
-
-
25. As a result of the TPA contract (and lower caseloads), what claims examination procedures do you expect to perform in the future which you could not previously perform? (Please be as specific as possible):
-
-
-
-
-
-
-
-
-
-
-
-
-

26. On a scale from 1 to 5, how would you rate the usefulness of the medical reports (Doctors' First Report of Injury as well as any subsequent reports) that you receive to determine compensability, medical status, reserve amounts, treatment appropriateness, etc.?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

If applicable, please explain how doctors' reports could be more useful in adjusting claims (please be as specific as possible):

27. On a scale from 1 to 5, how would you rate the usefulness and accuracy of the Employer's First Report of Injury in adjusting claims?

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

If applicable, please explain how the employers' reports could be more useful in adjusting claims (please be as specific as possible):

28. Do you believe that more claims could be denied as non-compensable?

YES NO

If so, what do you believe would be the major reasons for these denials?

If applicable, why do you believe that non-compensable claims are being paid?

29. In what situations, if any, do you usually consult with a supervisor (or some other party such as the City Attorney)?

For delay of claims beyond 14 days	<input type="checkbox"/>
To initiate a formal/intensive investigation	<input type="checkbox"/>
For denial of claims as non-industrial	<input type="checkbox"/>
For denial of claims for any other reason	<input type="checkbox"/>
For interpretations of case law	<input type="checkbox"/>
For answers to Application for Adjudication	<input type="checkbox"/>
For settlement of claims by Stipulation	<input type="checkbox"/>
For settlement based on Compromise & Release	<input type="checkbox"/>

30. Do you expect to usually consult with a supervisor, attorney, or other party concerning your claims as a result of Third Party Administration? If so, please indicate the areas in which you expect to have usual consultations in the future:

For delay of claims beyond 14 days	<input type="checkbox"/>
To initiate a formal/intensive investigation	<input type="checkbox"/>
For denial of claims as non-industrial	<input type="checkbox"/>
For denial of claims for any other reason	<input type="checkbox"/>
For interpretations of case law	<input type="checkbox"/>
For answers to Application for Adjudication	<input type="checkbox"/>
For settlement of claims by Stipulation	<input type="checkbox"/>
For settlement based on Compromise & Release	<input type="checkbox"/>

Comments: _____

31. On a scale from 1 to 5, please indicate your overall level of satisfaction with the WCD's procedures for adjusting claims:

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Poor	Fair	Satisfactory	Good	Excellent

Please explain: _____

If you indicated above that you are dissatisfied with claim examination procedures, do you believe that the problems result from excessive caseloads, or from other factors? Please explain. _____

32. Do you believe that improved WCD internal procedures, in addition to efforts to reduce caseloads, could significantly reduce the cost of claims? YES NO
Please explain: _____

Please explain: _____

33. Please provide any suggestions you may have which would, in your opinion, improve the operations of the Workers Compensation Division.

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